

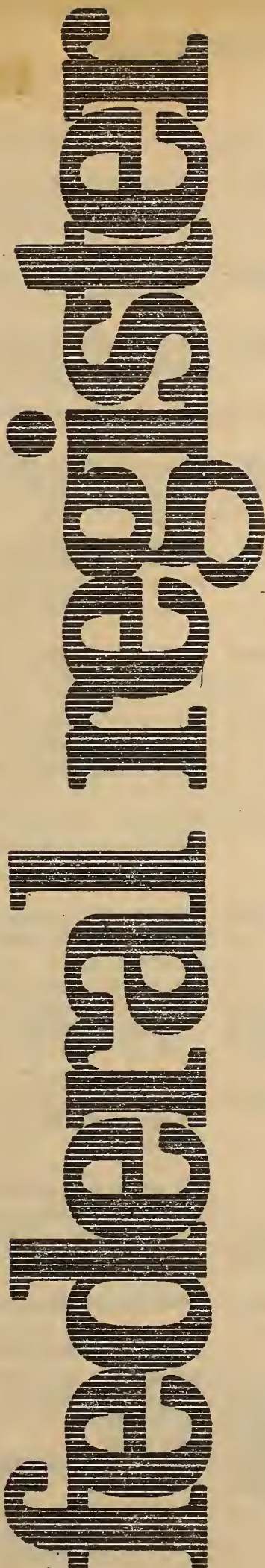
FEDERAL RESERVE LIBRARY

EDWARD HARRIS LIBRARY



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Highlights

- 53023 Exports—Libya** Commerce/ITA imposes additional foreign policy controls on aircraft and aircraft parts.
- 53320 Health Care** HHS/HSA lists areas proposed for deletion from list of medically underserved areas and extends comment period. (Part III of this issue)
- 53278 Grant Programs—Education** ED issues application notices and closing dates for certain direct grant programs for fiscal year 1982. (Part II of this issue)
- 53362, 53370 Grant Programs—Libraries** ED proposes to revise regulations for the Library Career Training and Strengthening Research Library Resources Programs. (Parts IV and V of this issue) (2 documents)
- 53021 Agriculture—Loan Programs** FCA adopts rule on special credit needs of young, beginning, and small farmers, ranchers, and producers or harvesters of aquatic products and on financing of specialized enterprises.
- 53376 Surface Mining** Interior/SMREO eliminates "State window" and allows States to adopt any provisions that are as effective as Federal regulations. (Part VI of this issue)

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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- 53144 Air Pollution Control** EPA establishes alternative method for determination of opacity of visible emissions from stationary sources.
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- 53195 Air Taxis** CAB proposes to remove cargo and mail carriers from commuter air carrier classification.
- 53171 Maritime Carriers** FMC reduces financial reporting requirements for common carriers serving domestic offshore trades.
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- 53205 Imports** CITA announces increase in restraint levels for certain cotton textile products from Pakistan.
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 - 53234** Thermal conductivity sensing gem testers;
 - 53236** Ultrafiltration membrane systems
- 53235 Antidumping** ITC announces institution of final investigation into motorcycle batteries from Taiwan.
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Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FARM CREDIT ADMINISTRATION

12 CFR Part 614

Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, adopts and publishes a final regulation implementing a provision of the Farm Credit Act Amendments of 1980 (Pub. L. 96-592). The provision relates to required programs to address the special credit needs of young, beginning, and small farmers, ranchers, and producers or harvesters of aquatic products. The final regulation also involves an amendment to the financing of specialized enterprises.

EFFECTIVE DATE: Thirty days from this publication date provided both Houses of Congress are in session. Notice of effective date will be published.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Deputy Governor, Office of Administration, 490 L'Enfant Plaza, S.W., Washington, DC 20578, (202-755-2181).

SUPPLEMENTARY INFORMATION: On August 6, 1981, the Farm Credit Administration noticed and published for public comment an amendment to 12 CFR 614.4165—Special Credit Needs (46 FR 40027-40028). The Federal Farm Credit Board considered each of the comments received and adopted the final regulation in the course of its October 1981 meeting.

A total of eleven parties commented on the proposed regulation, including six Farm Credit System banks, one individual, and four trade associations. Five commentators concurred with the proposal and did not suggest modification. Six commentators

provided the substantive comments discussed below. For purposes of this supplementary information, certain terms are designated as follows: Farm Credit Administration (FCA), Federal Farm Credit Board (Federal Board), Farm Credit System (System), Federal land bank (FLB), Federal land bank association (FLBA), Federal intermediate credit bank (FICB), production credit association (PCA), Farm Credit Act of 1971, as amended 12 U.S.C. 2001, *et seq.*, (Act) and Farm Credit Act Amendments of 1980 (1980 Amendments).

Section 4.19 of the Act does not define the terms "young", "beginning", or "small" farmer, and the legislative history of the 1980 Amendments offers very little guidance on the intended meaning of those terms. A majority of the commentators suggesting changes to the proposal focused on the necessity of defining "young, beginning, and small" farmers. Two commentators felt that the lack of definitions could lead to confusion and inequitable application of the regulation.

One commentator suggested that the definitions focus on the family farm operation, net worth, and nonownership of a farm in the previous 10 years. The commentator believed that special consideration should be given to small or beginning farmers who need special terms of credit and who can be expected to succeed in the farming operation.

Another commentator suggested defining a beginning farmer in terms of resources, including the availability of family resources. The same commentator suggested that the definitions be quantitative and include, but not be limited to, criteria such as: total assets, net worth, gross income, gross farm income, and net worth of the family farm.

The Federal Board concluded that defining the terms "young," "beginning," and "small" farmer will be of substantial benefit in administration of the statutory requirements. Therefore, the final regulation contains definitions of the three terms. For the purposes of the regulation, the term "young" means a person under 35 years of age. The term "beginning" means not having assumed full control and risk of an agricultural or aquatic operation for longer than 5 years. The term "small" means having maximum sustained gross sales and net worth which will be prescribed by FCA

to be consistent throughout the Farm Credit districts. Also, the scope of the final regulation encompasses producers or harvesters of aquatic products, together with farmers and ranchers. This inclusion is consistent with various provisions of the 1980 Amendments which make producers or harvesters of aquatic products eligible for the same credit and services available to farmers and ranchers.

The Federal Board noted that System institutions have been servicing all classes of young, beginning, small, and other groups of farmers and ranchers prior to both the 1971 Act and the 1980 Amendments, and the same groups have traditionally comprised a substantial percentage of eligible borrowers served. The Federal Board does not believe it would be appropriate or consistent with congressional intent to limit the subject programs to select groups of disadvantaged or special young, beginning, and small farmers, ranchers, and producers or harvesters of aquatic products.

One commentator suggested that the regulation include a list of specific types of program devices to be utilized to encourage cooperation among financial intermediaries in servicing the young, beginning, and small farmers and ranchers. These devices include loan guarantees and participation with Farmers Home Administration, financial agreements with any State for beginning farmer programs, and increased access by eligible other financing institutions to the Federal intermediate credit bank's discount window. The Federal Board rejected the suggestion because the regulation refers to "coordination among units of the Farm Credit System" and "coordination or participation with other credit institutions, especially governmental sources of credit or guarantees." The Federal Board wanted to void the limiting effect on System institutions that could result from listing specific programs, agencies, or groups.

One commentator suggested requiring System institutions to provide special supervisory assistance to young, beginning, and small farmers and ranchers. Apparently, the comment was prompted by a typographical error in the August 6 publication of the regulation in the Federal Register omitting language dealing with the components of program development as major considerations. With the error corrected, the term

"specialized servicing" should alleviate the concern raised.

One commentator suggested including a provision in the regulation to require Farm Credit district boards to supply congressional committees with copies of their annual reports on assisting young and beginning farmers. The Federal Board recognizes the importance of keeping Congress fully informed as to related district programs, but did not believe that reporting requirements in addition to those imposed under sections 4.9(b) and 5.18(a)(3) of the Act are necessary or appropriate.

One commentator suggested deleting § 614.4165(c) relating to the establishment of special "risk funds" based on the alleged impracticality of establishing risk funds for young, beginning, and small farmers and ranchers. In addition, the commentator stated that the entire loan portfolio of an FLBA or a PCA should not be burdened by the risk funds related to such lending programs. The Federal Board noted that the authority for establishing risk funds to protect System institutions which finance specialized enterprises was not designed specifically for young, beginning, and small farmer and rancher borrowers, nor is the establishment of such a fund required in a special credit program. Section 614.4165(c) has been in effect for a number of years and has been utilized by a limited number of System institutions in a variety of special high-risk situations. Consequently, the Federal Board rejected the suggestion to eliminate the provision.

One commentator suggested requiring System institutions to commit at least 25 percent of all the loans they make to special credit programs. The commentator also suggested that System institutions be required to make a complementary supervisory program available and allow cooperatives made up of young, beginning, and small farmers to qualify for the programs. The Federal Board did not adopt either suggestion. First, the program to be established pursuant to the 1980 Amendments relates specifically to FLBAs and PCAs. While the BC system is not specifically included, it will continue to be responsible to eligible, credit worthy cooperatives regardless of the makeup of their memberships. Second, the Federal Board did not believe that a quota system should be imposed on the amount of agricultural loans made.

Two commentators recommended that the regulation specify goals for special credit or require district banks to set goals for achieving the purposes of the program. The Federal Board noted that

the regulation refers to reporting of "progress toward program objectives" and thus the Federal Board believed no change is necessary.

The other comments received related to: (1) The types of information to be included in annual reports, (2) the establishment of local public hearings to obtain input on the programs, and (3) the extension of the 20-day public comment period. The Federal Board recognized that the suggested report information may be useful to FCA in establishing the reporting requirements. The comment relating to local public hearings made reference to an FCA-sponsored young farmer conference held in the early 1970's preceding an earlier young farmer program, and the commentator believed that the new program should receive as much preparation as the earlier program. The Federal Board recognized that the earlier program was successful and will consider similar programs after the regulation becomes final. As to extending the comment period, comments were solicited and accepted by FCA for a considerable time after the formal comment period expired. Since all comments received on the proposal were fully considered at the meeting of the Federal Board, the Federal Board believed there had been adequate time for public participation in the rulemaking process.

In accordance with section 5.18(b)(1) of the Act, this final regulation shall be effective 30 days from the date of this publication provided either or both Houses of Congress are in session during that time.

PART 614—LOAN POLICIES AND OPERATIONS

For the reasons set out in the preamble, Part 614 of Chapter VI, Title 12 of the Code of Federal Regulations is amended as shown. Section 614.4165 is revised to read as follows:

Subpart D—General Loan Policies for Banks and Associations

* * * * *

§ 614.4165 Special credit needs.

(a) In the formulation of bank lending policies and procedures, consideration shall be given to the special credit needs of young, beginning, or small farmers, ranchers, and producers or harvesters of aquatic products, and the peculiar needs of borrowers engaged in highly specialized, high-risk enterprises.

(b) When used in this section,

(1) The term "young" farmer, rancher, and producer or harvester of aquatic products means one who is under the age of 35;

(2) The term "beginning" farmer, rancher, and producer or harvester of aquatic products means one who is in the process of establishing an agricultural operation and who has not assumed the full control and risk of such an operation for longer than five years; and

(3) The term "small" farmer, rancher, and producer or harvester of aquatic products means one having sustained gross sales from agricultural or aquatic production and a net worth as prescribed by the Farm Credit Administration.

(c) Young, beginning, and small farmers, ranchers, and producers or harvesters of aquatic products. District boards shall adopt policies prescribing establishment of programs by production credit associations and Federal land bank associations in their extension of sound and constructive credit and related services to young, beginning, or small farmers, ranchers, and producers or harvesters of aquatic products. Such policies shall outline objectives of the programs and shall include, but are not limited to, the following:

(1) Provisions, relating to coordination among units of the Farm Credit System, which recognize the special requirements of such borrowers and assure that credit and related services are made available to them on a joint and cooperative basis. Such provisions should also emphasize coordination or participation with other credit institutions, especially governmental sources of credit or guarantees.

(2) The requirement that each association board adopt policies establishing parameters within which management is directed to operate in this phase of its lending and services. Capital resources with which to withstand risk and staff resources capable of providing specialized servicing shall be major considerations in program development. Association policies shall be subject to prior approval of the supervising bank.

(3) The specific years of experience and amount of gross sales and net worth to be established under the definition of beginning and small farmer, rancher, or producer or harvester of aquatic products.

(4) Bank supervisory requirements which will ensure:

(i) Uniform identification of loans made to borrowers under such programs;

(ii) Monitoring and evaluation of the associations' operations and achievements;

(iii) Periodic reporting of activities under programs developed and progress toward program objectives.

(d) The Federal land bank and Federal intermediate credit bank for each district, on the basis of reports of activities from each association under their supervision, shall provide to the Farm Credit Administration a joint annual report summarizing the operations and achievements in their district under such programs. The format for these reports shall be prescribed by the Farm Credit Administration.

(e) *Specialized enterprises.* Consideration can be given by bank and association boards to organizing groups of similar specialized borrowers engaged in enterprises involving a high degree of risk into pools by which banks or associations may minimize the higher risk occasioned by financing such specialized enterprises. Where such programs are authorized, the bank board shall adopt appropriate policies that: (1) Define criteria for the selection of specialized high risk enterprises and (2) establish requirements for bank supervisory procedures which will give direction, guidance, and control to association programs.

(f) District and bank policies relating to the special credit needs of eligible borrowers shall be subject to Farm Credit Administration approval.

(Secs. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621, as amended, 12 U.S.C. 2243, 2246 and 2252)

C. T. Fredrickson,
Acting Governor.

[FR Doc. 81-31204 Filed 10-27-81; 8:45 am]

BILLING CODE 6705-01-M

SUPPLEMENTARY INFORMATION: In ER-1251, 46 FR 51371, October 20, 1981, the Civil Aeronautics Board adopted several amendments of 14 CFR Part 298, *Classification and Exemption of Air Taxi Operators*.

§ 298.2 [Corrected]

The amendment of § 298.2, *Definitions*, added a definition of "certificated carrier." The amendment stated that the definition was to be added "in alphabetical order." It should have added the definition as a new paragraph (e-2).

The amendment of § 298.11, *Exemption authority*, replaced paragraphs (g), (h), and (i) with a revised paragraph (g). To guide the reader, the amendment also set out the opening text of § 298.11, (i.e., the text preceding paragraph (a)). That text was incorrect, however, having been recently amended in ER-1244, 46 FR 43959, September 2, 1981. The correct opening text of § 298.11 is:

§ 298.11 Exemption authority.

Air taxi operators are hereby relieved from the following provisions of Title IV of the Act only if and so long as they comply with the provisions of this part and the conditions imposed herein, and to the extent necessary to permit them to conduct air taxi operations:

* * * * *

Dated: October 22, 1981.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-31297 Filed 10-27-81; 8:45 am]

BILLING CODE 6320-01-M

imposes a validated export license requirement for certain aircraft that previously could be shipped to Libya under general license. The expanded coverage is necessary to limit Libyan use of U.S. aircraft in military intervention in neighboring countries.

DATES: Effective: October 28, 1981.
Comments period closes: December 28, 1981.

ADDRESSES: Written comments (five copies when possible) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

All public comments will be available for public inspection in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Archie Andrews, Director, Exporters' Service, Office of Export Administration, Room 1623, Department of Commerce, Washington, D.C. 20230. Telephone: (202) 377-4811.

SUPPLEMENTARY INFORMATION:

Regulatory Change

Pursuant to section 6 of the Export Administration Act of 1979 and following consultation with the Department of State, it has been determined that this rule is necessary to further significantly the foreign policy of the United States. Additional controls on aircraft, and engines, parts, and components for aircraft are being imposed for regional stability reasons in view of the Libyan use of all types of aircraft and helicopters in military intervention in neighboring countries. Appropriate persons in industry and the Congress have been consulted, and the Departments of Commerce and State have considered the criteria set forth in section 6(b) of the Act.

Pursuant to section 4(c), it has been determined that, notwithstanding foreign availability, absence of these controls would be detrimental to the foreign policy of the United States. Pursuant to section 6(d), it has been determined that there are no feasible alternative means of achieving the purpose of these controls. As provided in section 6(g), efforts are being made to obtain cooperation of countries that produce comparable items.

Saving Clause

Shipments of commodities removed from general license as a result of these

CIVIL AERONAUTICS BOARD

14 CFR Part 298

[Reg. ER-1251; Docket No. 38906, Amdt. No. 17 to Part 298]

Classification and Exemption of Air Taxi Operators Dual Authority; Correction

AGENCY: Civil Aeronautics Board.

ACTION: Correction of final rule.

SUMMARY: The CAB corrects an amendment of its air taxi rule. The amendment granted exemptions to certificated air carriers for certain operations with small aircraft, enabling the certificated carriers to provide service as if they were air taxi operators.

DATES: Adopted: October 14, 1981.
Effective: October 20, 1981.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer (202) 673-5442.

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 376 and 385 and 399

Exports of Aircraft and Aircraft Parts to Libya Controlled for Foreign Policy Reasons

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Interim Rule with Request for Comments.

SUMMARY: The Office of Export Administration maintains the Commodity Control List (CCL), which lists all commodities subject to Department of Commerce control. This rule extends foreign policy controls to certain entries covering aircraft and helicopters and aircraft parts and avionics that already require validated export licenses for export to Libya, and

changes that were on dock for lading, on lighter, laden aboard an exporting carrier, or in transit to a port of export pursuant to actual orders for export, prior to October 28, 1981 may be exported under the previous general license provisions up to and including (7th day after effective date). Any such commodity not actually exported before midnight November 4, 1981 requires a validated export license.

Rulemaking Requirements and Invitation to Comment

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule involves a "foreign affairs" function of the United States and, therefore, is exempt from the requirements of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

4. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

These regulations are effective October 28, 1981. However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations.

The period for submission of comments will close December 28, 1981. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the end of the comment period will be considered if possible, their consideration cannot be assured. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral

comments are received, they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the *Code of Federal Regulations*. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

Accordingly, Parts 376, 385 and Supplement No. 1 to § 399.1 of the Export Administration Regulations are amended as follows:

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

1. Section 376.16 is amended by adding a new paragraph (c) as follows:

§ 376.16 Regional stability commodities and equipment.

(c) Aircraft (including helicopters) and parts and accessories to Libya identified on the CCL under ECCN's 1460A, 4460B, 5460F, 6460F, 1485A, 1501A (a), (b)(1) and (c)(1). (See § 385.4(e)(2).)

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

2. Section 385.4(e) is amended by numbering the existing single paragraph as (1) and by adding a new paragraph numbered (2) as follows:

§ 385.4 Country Group V.

(e) *Libya.* * * *

(2) As authorized by section 6 of the Export Administration Act of 1979, a validated license is required for foreign policy purposes for the export or reexport to Libya of any aircraft (including helicopters) and any parts and accessories controlled under ECCN's 1460A 4460B, 5460F, 6460F, 1485A, and 1501A(a), (b)(1) and (c)(1).

This control includes any such aircraft parts intended for use in the manufacture, overhaul, or rehabilitation in any third country of aircraft that will be exported or reexported to Libya or Libyan nationals. Applications for validated licenses will generally be approved on a case-by-case basis for aircraft unlikely to be diverted to military use because they are destined to a priority civil use, such as oil operations, and for parts required for the safe operation of aircraft in civil use in Libya. Applications will generally be denied for exports that would constitute a high risk of increasing Libyan capabilities to carry military cargo or troops or to conduct military reconnaissance or observation missions.

* * * * *

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

§ 399.1 [Amended]

3. The Commodity Control List (Supplement No. 1 to § 399.1) is amended as follows:

I. Footnote 7 to Entry No. 1460A is amended by revising the phrase "the Republic of South Africa and Namibia" to read "the Republic of South Africa, Namibia, and Libya"; by removing "Libya" from the phrase "to Libya, Syria, Iraq, and the People's Democratic Republic of Yemen"; and by removing the final sentence.

II. Entry No. 1460A is amended by revising the "Reason for Control" column for paragraph (c) only to read "1, 3", and by adding a footnote following the "3" reading: "Foreign policy controls apply only to Libya."

Note: This footnote will be sequentially numbered in the 1982 edition of the Code of Federal Regulations.

III. Entry No. 4460B is amended by revising the "Reason for Control" column to read "1, 3", and by adding a footnote following the "3" reading: "Foreign policy controls apply only to Libya."

Note: This footnote will be sequentially numbered in the 1982 edition of the Code of Federal Regulations.

IV. Entry No. 6460F is amended by revising the Validated License Required column to read "SZ² and the Rep. of South Africa, Namibia & Libya."

V. Entry No. 1485A is amended by revising the "Reason for Control" column to read "1, 3" and by adding a footnote following the "3" reading as follows: "Foreign policy controls apply only to Libya."

Note: This footnote will be sequentially numbered in the 1982 edition of the Code of Federal Regulations.

VI. Entry No. 1501A is amended by removing the "1" from the "Reason for Control" column at the beginning of the entry; by adding "1,3" to the "Reason for Control" column for paragraphs (a), (b)(1) and (c)(1); by adding "1" to the "Reason for Control" column for paragraphs (b)(2), (b)(3) and (c)(2); and by adding a footnote following each "3" reading as follows: "Foreign policy controls apply only to Libya."

Note: This footnote will be sequentially numbered in the 1982 edition of the Code of Federal Regulations.

Authority: Secs. 6, 13 and 15, Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10-3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41-1 (45 FR 11862, February 22, 1980) and 41-4 (45 FR 65003, October 1, 1980).

Dated: October 23, 1981.

William V. Skidmore,

Director, Office of Export Administration,
International Trade Administration.

[FR Doc. 81-31196 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 6

Equal Access to Justice Act; Implementation

AGENCY: Department of the Treasury.

ACTION: Temporary rule with request for comments.

SUMMARY: By this notice, the Treasury Department issues temporary regulations with a request for comments, in accordance with the requirements of the Equal Access to Justice Act (Public Law No. 96-481, October 21, 1980).

These regulations, based on model regulations issued by the Administrative Conference on June 18, 1981, identify the Treasury Department proceedings to which the Act applies and establish uniform procedures among the affected Treasury Department agencies for submission and consideration of applications for awards of attorney fees and expenses.

These regulations are being published as temporary regulations effective October 1, 1981. However, written comments received on or before November 27, 1981, will be considered in determining whether any change to the regulations is required before a final rule

is issued. Temporary regulations are being prescribed to become effective simultaneously with the effective date of the Equal Access to Justice Act in order that guidance will be available at that time to potential applicants for awards under the Act and to Treasury Department officials.

DATES: Effective Date: October 1, 1981.

Comments must be received on or before November 27, 1981.

ADDRESS: Comments should be addressed to the General Counsel, Attention: Assistant General Counsel (Enforcement and Operations), Department of the Treasury, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT: James R. Alliston, Office of the Assistant General Counsel (Enforcement and Operations), Room 2308, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, D.C. 20220 (202/566-8261) or Stephanie J. Dick, Office of the Assistant General Counsel (Enforcement and Operations), Room 2000, Main Treasury Building, 1500 Pennsylvania Ave., NW., Washington, D.C. 20220 (202/566-9947).

SUPPLEMENTARY INFORMATION:

Background

Section 202(c)(1) of the Equal Access to Justice Act states that its purpose is "to diminish the deterrent effect of seeking review of, or defending against governmental action by providing in specified situations an award of attorney fees, expert witness fees, and other costs against the United States * * *". Accordingly, whenever an agency conducts an adversary adjudication under 5 U.S.C. 554 (unless specifically excluded by the Act), it may be liable to the prevailing party for the payment of attorney fees and other expenses unless the agency's position is found to have been substantially justified or special circumstances would make an award unjust.

The Act directs each agency, after consultation with the Chairman of the Administrative Conference of the United States, to "establish uniform procedures for the submission and consideration of applications for an award of fees and other expenses." (5 U.S.C. 504(c)(1)).

In addition to identifying the proceedings of Treasury agencies which are governed by 5 U.S.C. 554, and to which the Act therefore applies, the proposed regulations include a description of types of applicants who are eligible for awards, standards for awards, the kind of fees and expenses which are allowable, and a description of the information which must be

contained in applications for awards under the Act.

Proposed Amendments

It is proposed to amend the Treasury regulations (title 31, Code of Federal Regulations) by adding the following as Part 6:

PART 6—APPLICATIONS FOR AWARDS UNDER THE EQUAL ACCESS TO JUSTICE ACT

Subpart A—General Provisions

Sec.

- 6.1 Purpose of these rules.
- 6.2 When the Act applies.
- 6.3 Proceedings covered.
- 6.4 Eligibility of applicants.
- 6.5 Standards for awards.
- 6.6 Allowable fees and expenses.
- 6.7 Delegations of authority.

Subpart B—Information Required From Applicants

- 6.8 Contents of application.
- 6.9 Net worth exhibit.
- 6.10 Documentation of fees and expenses.
- 6.11 When an application may be filed.

Subpart C—Procedures for Considering Applications

- 6.12 Filing and service of documents.
- 6.13 Answer to application.
- 6.14 Decision.
- 6.15 Agency review.
- 6.16 Judicial review.
- 6.17 Payment of award.

Authority: Sec. 203(a)(1), Pub. L. 96-481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)).

Subpart A—General Provisions

§ 6.1 Purposes of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (called "the Act" in this Part), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before agencies of the Government of the United States. An eligible party may receive an award when it prevails over an agency, unless the agency's position in the proceeding was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the Treasury Department will use to make them.

§ 6.2 When the Act applies.

The Act applies to any adversary adjudication pending before an agency at any time between October 1, 1981 and September 30, 1984. This includes proceedings begun before October 1,

1981 if final agency action has not been taken before that date, and proceedings pending on September 30, 1984, regardless of when they were initiated or when final agency action occurs.

§ 6.3 Proceedings covered.

The Act applies to adversary adjudications conducted by the Treasury Department. These are adjudications under 5 U.S.C. 554 in which the position of the Department, or any component thereof, is represented by an attorney or other representative who enters an appearance and participates in the proceeding. Within the Treasury Department, these proceedings are:

(a) Bureau of Alcohol, Tobacco and Firearms: (1) Permit proceedings under the Federal Alcohol Administration Act (27 U.S.C. 204) (2) Permit proceedings under the Internal Revenue Code of 1954 (26 U.S.C. 5171, 5271, 5713); (3) License and permit proceedings under the Federal Explosives Laws (18 U.S.C. 843).

(b) Comptroller of the Currency:

All proceedings conducted under 12 CFR Part 19, Subpart A.

(c) Office of Revenue Sharing: Proceedings under 31 CFR 51.200, *et seq.* (Subpart G—Proceedings for Reduction in Entitlement, Withholding, Suspension or Repayment of Funds) concerning:

(1) Violation of Nondiscrimination Provisions (Subpart E);

(2) Violation of Audit, Public Participation, Lobbying, Davis-Bacon, State or local law and Reporting Provisions (Subparts B, D and F.)

§ 6.4 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart and has complied with the requirements in subpart B.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than \$1 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than \$5 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the

Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; or

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than \$5 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the matter in controversy is primarily related to personal interests rather than to business interests.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual or group of individuals, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares of another business, or controls in any manner the election of a majority of that business's board of directors, trustees, or other persons exercising similar functions, will be considered an affiliate of that business for purposes of this Part, unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the adjudicative officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 6.5 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with the final disposition of a proceeding, unless the position of the agency was substantially justified. No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding

or if special circumstances make the award sought unjust.

§ 6.6 Allowable fees and expenses.

(a) No award for the fee of an attorney or agent under these rules may exceed \$75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which the agency regularly pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses.

(b) Generally, the appropriate measure of attorney's fees will be determined by multiplying a reasonable hourly rate for the attorney's services by the number of hours reasonably expended in preparation for and participation in the proceeding. Among the factors which may be considered by the adjudicative officer in determining the reasonableness of the fee sought are the following:

(1) The customary fee for similar services ordinarily charged by an attorney, agent or witness in private practice, or, if the attorney, agent or witness is an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for the kind and quality of the services furnished in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time reasonably spent in the representation of the applicant;

(4) The skill required to perform the legal services;

(5) Whether the fee is fixed or contingent;

(6) Time limitations imposed by client or circumstances;

(7) The experience, reputation and ability of the attorney;

(8) The undesirability of the case; and

(9) Such other factors as may bear on the value of the services provided.

(c) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

§ 6.7 Delegations of authority.

The Director, Bureau of Alcohol, Tobacco and Firearms; the Comptroller of the Currency; and the Director, Office of Revenue Sharing, are authorized to take final action on matters pertaining to the Equal Access to Justice Act, 5

U.S.C. 504, in proceedings listed in § 6.3 of this part under the respective bureau or office. The Secretary of the Treasury may by order delegate authority to take final action on matters pertaining to the Equal Access to Justice Act in particular cases to other subordinate officials.

Subpart B—Information Required From Applicants

§ 6.8 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of the agency in the proceeding that the applicant alleges was not substantially justified. The application shall state the basis for the applicant's belief that the position was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed \$1 million (if an individual) or \$5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall itemize the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes the agency to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer with respect to the eligibility of the applicant and by the attorney of the applicant with respect to fees and expenses sought. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

§ 6.9 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization, cooperative association, or State government or unit or local government, must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 6.4(f) of this part) when the proceeding was initiated. In the case of national banking associations, "net worth" shall be considered to be the total capital and surplus as reported, in conformity with the applicable instructions and guidelines, on the bank's last Consolidated Report of Condition filed before the initiation of the underlying proceeding.

(b) The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this Part. The adjudicative officer may require an applicant to file additional information to determine its eligibility for an award.

§ 6.10 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent by date in connection with the proceeding by each individual, a description of the specific services performed during those hours, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The adjudicative officer may require the applicant to provide vouchers, receipts, or other substantiation for any expense claimed.

§ 6.11 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding, but in no case later than 30 days after the agency's final disposition of the proceeding.

(b) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

Subpart C—Procedures for Considering Applications

§ 6.12 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding.

§ 6.13 Answer to application.

(a) Within 30 days after service of an application, counsel representing the agency against which an award is sought shall file an answer to the application.

(b) If agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 60 days, and further extensions may be granted by the adjudicative officer upon request by agency counsel and the applicant.

(c) The answer shall explain any objections to the award requested and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer supporting affidavits.

§ 6.14 Decision.

The adjudicative officer shall issue an initial decision on the application within 60 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust.

§ 6.15 Agency review.

Either the applicant or agency counsel may seek review of the initial decision on the fee application, or the agency may decide to review the decision on its own initiative. If neither the applicant nor agency counsel seeks review and the agency does not take review on its own initiative, the initial decision on the application shall become a final decision of the agency 30 days after it is issued. Whether to review a decision is a matter within the discretion of the agency. If review is taken, the agency

will issue a final decision on the application or remand the application to the adjudicative officer for further proceedings.

§ 6.16 Judicial review.

Judicial review of final agency decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 6.17 Payment of award.

An applicant seeking payment of an award shall submit to the agency a copy of the agency's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. An applicant shall be paid the amount awarded unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

Authority

These regulations are proposed under the authority of Section 203(a)(1), Pub. L. 96-481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)).

Executive Order 12291

It has been determined that this proposal does not meet the criteria for "major rules", set forth in Executive Order 12291 (February 17, 1981) in that it will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the regulations, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. Accordingly, the Secretary of the Treasury has certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the regulations, if

promulgated, will not have a significant economic impact on a substantial number of small entities.

Comments

Before adopting final regulations, consideration will be given to any written comments timely submitted. Comments submitted will be available for public inspection during regular business hours at the Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, D.C. 20220.

Drafting Information

The principal author of this document was Stephanie J. Dick, Office of the General Counsel, Department of the Treasury. However, personnel from other Treasury offices participated in its development.

Dated: October 16, 1981.

Peter J. Wallison,
General Counsel.

[FR Doc. 81-31197 Filed 10-27-81; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF DEFENSE

32 CFR Parts 1-39

[DAC 76-29]

Defense Acquisition Regulation

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document publishes changes to the Defense Acquisition Regulation contained in the Code of Federal Regulations. The changes are the same as those in Defense Acquisition Circular 76-29. Some of the changes include: Patent rights—small business firms and nonprofit organizations; deletion of Section IV, Part 2, exchange or sale of personal property; safety and health requirements manual; and editorial change to DAR 21-112.1(d).

EFFECTIVE DATE: August 31, 1981.

FOR FURTHER INFORMATION CONTACT:

J. Brannan, Director, Defense Acquisition Regulatory Council, Room 3D1028, Pentagon, Washington, D.C. 20301, Telephone 202-697-7266.

SUPPLEMENTARY INFORMATION:

Background

The Defense Acquisition Regulation (DAR) is codified in Title 32, Parts 1-39, Volumes I, II, and III, of the Code of Federal Regulations. The July 1, 1979 revision, as supplemented on July 1, 1980, is the most recent edition of that title. It reflects amendments to the 1976

edition made by Circulars 76-1 through 76-23.

The Department of Defense announced the promulgation of the 1979 CFR edition in the *Federal Register* of December 31, 1979 (44 FR 77158), and also announced at that time that subsequent amendments to the Regulation would be published in the *Federal Register*.

Defense Acquisition Circular 76-29

This document contains amendments to the Defense Acquisition Regulation in the form of replacement pages which were included in DAC 76-29, issued August 31, 1981. The following is a summary of the amendments:

Patent Rights—Small Business Firms and Nonprofit Organizations. DAR Sections VII and IX are revised to meet the requirements of Public Law 96-517 of December 12, 1980, and OMB Bulletin 81-22 of June 30, 1981, which was published in the *Federal Register* on July 2, 1981. Section VII has been revised to incorporate a new Patent Rights clause for use in all research and development (R&D) contracts and subcontracts awarded to small business firms and nonprofit organizations. Section IX has been correspondingly revised to incorporate new instructional material relating to the use of the new Patent Rights clause. A new Part 7 has been established in Section IX which includes all of the material in Section IX relating to patent rights under R&D contracts and the administration of patent rights clauses. The new Patent Rights clause, subject to certain exceptions, affords small business firms and nonprofit organizations the right or first option to acquire title to inventions made during the performance of R&D contracts.

Definitizing Letter Contracts, DAR 3-408(d) (Information Item). In response to a report from the General Accounting Office entitled "Delays in Definitizing Letter Contracts Can be Costly to the Government," the Under Secretary of Defense, Research and Engineering, pledged support in emphasizing to the Services the need for timely letter contract definitization and possible use of unilateral determinations of contract price or fee. DAR 3-408 sets forth guidance and direction for use and administration of letter contracts and establishes time frames for definitization. Contracting Officers have the right per 3-408(d) and 7-802.5, with HCA approval, to unilaterally determine the contract price or fee. The GAO determined that unilateral determinations to definitize contracts are not generally being used. The longer a letter contract remains open, the more

the Government's negotiation position is eroded. Contracting Officers should consider invoking the unilateral action as contained in DAR clause 7-802.5(c) when the definitization time frames in the clauses are exceeded.

Improved Contractor Utilization of Defense Technical Information Center (DTIC) (Formerly Defense Documentation Center (DDC)). DAR 9-202.1(c) states that when the Government pays for research and development (R&D) work which produces new knowledge, products or processes, it has an obligation to foster technological progress through wide dissemination of the information where practicable to provide competitive opportunities for supplying the new products and utilizing the new processes. DTIC was established as a reservoir of DoD R&D technical information to ensure that this information, representing billions of dollars of research effort, is disseminated widely throughout DoD to avoid duplication of R&D effort and to be used by contractors as applicable to products or services acquired by DoD. Because of the information contained in this item, it will be published with the replacement pages attached to this document.

Scientific and Technical Reports. DAR-113(d) is revised to provide the designation of Defense Technical Information Center, and to change the reference from DLA Manual 4185.3 to DLA Regulation 4185.10.

Deletion of Section IV, Part 2, Exchange or Sale of Personal Property. DoD Instruction 4160.1, Exchange/Sale Processing of Nonexcess Personal Property in the Department of Defense, has been canceled, effective October 1, 1980. Therefore, DAR Section IV, Part 2, entitled "Exchange or Sale of Personal Property," is hereby deleted.

Safety and Health Requirements Manual. DAR 7-602.42(a) is revised to update the reference to EM 385-1-1 from "General Safety Requirements" (1 June

1977) to "Safety and Health Requirements" (1 April 1981).

Editorial Change to DAR 21-112.1(d). DAR 21-112.1(d) is revised to provide the correct telephone number for obtaining DUNS numbers and to delete information with respect to use of the telecopier.

Because the Defense Acquisition Regulation concerns agency management, public property, and contracts, it is not necessary to issue proposed rules for public comment. Neither is it necessary to delay the effective date until 30 days after the date of publication of these rules, 5 U.S.C. 533 (a) and (d). The amendments became effective on August 31, 1981.

How to Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76-29. The number at the top of each page (for example, 4:15) identifies the page from the Regulation which is being replaced. The number at the bottom of the page is a reference to the last appearing numbered paragraph on the page, or if none shows, on a preceding page. The vertical line in the right margin indicates where the amendment is located.

Adoption of Amendments

Therefore, the July 1, 1979 edition of the Defense Acquisition Regulation contained in 32 CFR Parts 1-39, Volumes I, II, and III, as supplemented on July 1, 1980, is amended in the DAR paragraphs indicated by substitution of the replacement pages listed in the table:

DAR paragraph	Replacement pages
Volume I	
4-113	4:16.
Section IV, Part 2 deleted [reserved] (4-200 through 4-205.5 deleted).	4:22 (4:23 through 4:28 removed).

DAR paragraph	Replacement pages
Volume II	
7-302.23	7:214, 7:215, 7:218, 7:218-A, 7:222 through 7:224, 7:227 through 7:230, 7:230-A through 7:230-G, 7:231.
7-402.22	7:254.
7-503.9	7:270.
7-602.42	7:294.
7-603.16	7:300.
7-606.25	7:332.
7-608.14	7:342.
7-705.8	7:367.
7-902.8	7:389.
7-1702.4	7:433.
Section IX table of contents ...	1 through 4.
9-000	9:1.
9-100	9:2.
9-107 [reserved]	9:5.
9-108 [reserved]	9:5.
9-109 [reserved]	9:5 (9:8 through 9:26 removed).
Section IX, part 7 (add)	9:61.
9-700 (add)	9:61.
9-701 (add)	9:61.
9-701.1 (add)	9:61.
9-701.2 (add)	9:61 through 9:63, 9:64.
9-701.3 (add)	9:64 through 9:68, 9:69.
9-701.4 [reserved]	9:69.
9-701.5 [reserved]	9:69.
9-701.6 (add)	9:69.
9-701.7 (add)	9:69.
9-701.8 (add)	9:69, 9:70.
9-701.9 (add)	9:70.
9-702 (add)	9:70, 9:71.
9-702.1 (add)	9:71.
9-702.2 (add)	9:71, 9:72.
9-702.3 (add)	9:72 through 9:75, 9:76.
9-702.4 [reserved]	9:76.
9-702.5 [reserved]	9:76.
9-702.6 (add)	9:76.
9-702.7 (add)	9:77.
9-702.8 (add)	9:77, 9:78, 9:79.
9-702.9 (add)	9:79.
9-703 (add)	9:79.
9-703.1 (add)	9:79, 9:80.
9-703.2 (add)	9:80.
9-703.3 (add)	9:80, 9:81.
9-703.4 (add)	9:81.
9-703.5 (add)	9:81, 9:82, 9:83.
9-703.6 (add)	9:83 through 9:88, 9:89.
9-704 (add)	9:89.
Volume III	
18-908	18:58.
21-112.1	21:8-A, 21:8-B.

M.S. Healy,
OSD Federal Register Liaison Officer,
Washington Headquarters Services,
Department of Defense.

October 23, 1981.

BILLING CODE 3810-01-M

ITEM III IMPROVED CONTRACTOR UTILIZATION OF DEFENSE
TECHNICAL INFORMATION CENTER (DTIC)
(FORMERLY DEFENSE DOCUMENTATION CENTER (DDC))

DAR 9-202.1(c) states that when the Government pays for research and development (R&D) work which produces new knowledge, products or processes, it has an obligation to foster technological progress through wide dissemination of the information where practicable to provide competitive opportunities for supplying the new products and utilizing the new processes. DTIC was established as a reservoir of DoD R&D technical information to ensure that this information, representing billions of dollars of research effort, is disseminated widely throughout DoD to avoid duplication of R&D effort and to be used by contractors as applicable to products or services acquired by DoD. It is the policy and intent of the Department of Defense to furnish relevant information on military planning and requirements to industrial organizations having the interest, need to know, and proper security clearance. It is incumbent upon contracting officers to ensure that all DoD contractors or potential contractors have full access to technical information from DTIC. Information available from DTIC has proven to be of importance to contractors with production, as well as R&D, contracts. When a contractor requests access to the DTIC services, contracting officers should use DD Forms 1540 and 1541 to register those contractors for access to DoD technical information, based

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on the security classification of the procurement being planned or awarded. A separate DD Form 1540 must be submitted for each contract or grant so that subject fields and groups for technical information can be established that are pertinent to the acquisition requirement.

Many technical reports in the DTIC collection are unclassified because of the DD automated downgrading program and there are no restrictions to the use of this data by DoD contractors. DTIC has within its system controls to handle problems pertaining to foreign disclosure based on data supplied on DD Forms 1540 and 1541.

In addition to the information available at DTIC, planning, requirements, and other information of use to DoD contractors or potential contractors is also available from the three services. DoDI 5200.21 assigns responsibility to DoD components to designate an office to provide and maintain procedures responsive to DoD policies for information dissemination and applicable security regulations. Accordingly, to ensure that Defense contractors acquire all pertinent information to adequately respond to defense requirements, the points of contact for each DoD component are hereby identified:

NAVY: Director of Navy Technical Information
Headquarters, Naval Material Command
Department of the Navy
Washington, D.C. 20360
Telephone: AC 202-692-0515

AIR FORCE: AFSC/DLXM
STINFO Officer
Andrews Air Force Base, MD 20334
Telephone: AC 301-981-4162

ARMY: HQ DARCOM (DRCDE-E)
5001 Eisenhower Avenue
Alexandria, VA 22333
Telephone: AC 202-274-8948

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- (x) Determination of the amount of a special use allowance shall be based on the comparative need for the research facility by the Department of Defense and by the educational institution. In no event shall the institution be paid more than the acquisition costs.
- (xi) In establishing the annual special use allowance, due consideration shall be given to rental costs for similar space in the area where the research facility is to be located.
- (xii) No payment shall be made to the educational institution for costs of land or interest charges on capital, used or borrowed, for the acquisition of the research facility.
- (xiii) Information copies of each special use allowance agreement negotiated shall be furnished to each authorizing official specified in (c) and to the Director of Defense Research and Engineering, Office of the Secretary of Defense.

4-112 Placing Subcontracts for Research and Development Effort. Since the selection of research or development contractors is based upon seeking the best scientific and technological sources, it is important that the contractor selected on this basis does not in turn subcontract technical or scientific work without prior approval of the contracting officer. The clause prescribed in 7-402.8, for cost-reimbursement type research and development contracts, requires prior written consent of the contracting officer for the placement of any subcontract which has experimental, developmental, or research work as one of its purposes. During the negotiation of the contract, it is imperative that the contracting officer obtain complete information concerning the contractor's plans for subcontracting any portion of the research or development effort. See 1-906, 3-807.9, and 23-201.2.

4-113 Scientific and Technical Reports.

(a) Scientific and Technical Reports are documents written for the permanent record to document results obtained from and recommendations made on scientific and technical activities relating to a single project, task, or contract or relating to a small group of closely connected efforts within the Department of Defense Research and Development Program. A completed Report Documentation Page (DD Form 1473) is to be included in each copy of a scientific or technical report required by the contract. (See 16-807.)

(b) Wherever a scientific or technical report is required as a product of the Research, Development, Test and Evaluation Effort, the contracting officer will assure that the requirement for a completed DD Form 1473 is clearly stated and that a complete DD Form 1473 is included with each copy of the required scientific and technical reports.

(c) Research and development contracts are required to contain appropriate data clauses as prescribed in Section IX, Part 2, which usually provide, among other things, for the reproduction and use for any purpose of the Government of any or all of the information to be provided under the contract. Contracting officers shall require contractors to furnish all such information resulting from research or development contracts. Scientific and technical reports should be reproduced as economically as practicable, consistent with the reporting needs of the Government.

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(d) It is important that the results of research and development contracts be made readily available to Government activities, and to non-Government organizations and persons who have a need to know in accordance with procedures of the Departments. Copies of scientific and technical reports resulting from DoD contracts are furnished to the Defense Technical Information Center which provides a central service for the interchange of scientific and technical information of value to the Department of Defense agencies and contractors. These elements may become eligible for such service by registering in accordance with the Defense Logistics Agency Regulation 4185.10, Certification and Registration for Access to DoD Scientific and Technical Information, available from the Defense Technical Information Center, Cameron Station, Alexandria, Virginia 22314.

4-114 Data Under Research and Development Contracts.

(a) Research and development contracts shall specify the technical data to be delivered under the contract since the data clauses required by Section IX, Part 2, do not require the delivery of any such data.

(b) In planning a developmental procurement, when subsequent production contracts are contemplated, consideration should be given to the need and time required for obtaining a procurement package. The acquisition of rights to use data for procurement is covered by Section IX, Part 2. The term "procurement package" means plans, drawings, specifications and other descriptive information and data necessary to achieve competition in production contracts.

4-115 Insurance Under Research and Development Contracts. See Section X.

4-115.1 Contractor Immunity From Liability for Torts. In the case of cost-reimbursement type contracts where nonprofit educational institutions or other contractors do not carry insurance either because as charitable organizations they claim immunity from liability for torts or, in the case of state institutions, because the state law does not permit them to expend their funds for insurance premiums, the requirements of the Insurance-Liability clause, 7-203.22, may be modified to recognize a claim of partial immunity as provided in 7-402.26(a) or for a claim of total immunity as provided in 7-402.26(b).

4-115.2 Indemnification Against Unusually Hazardous Risks. Under the authority provided by 10 U.S.C. 2354, research and development contracts may specifically include language to indemnify contractors against liability on account of claims by third parties (including those of contractors' employees) for death, bodily injury, and loss of or damage to property, and for loss of or damage to the contractors' property, to the extent such liabilities arise out of the direct performance of the contract involved and from a risk defined in the contract as unusually hazardous. (See Section X, Part 7.)

4-116 Government Property Under Research and Development Contracts.

4-116.1 General. For research and development contracts with commercial organizations, the clauses relating to property furnished by the Government or acquired by the contractor at Government expense are in 7-104.24 or 7-203.21. Different clauses are prescribed for use in research and development contracts with educational or other nonprofit institutions. (See 7-303.7 and 7-402.25.) Required clauses for facilities use contracts are in 7-704, except that the clauses in 7-706 may be used in facilities use contracts with nonprofit educational institutions.

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and organizations warrant an agreement. These Basic Agreements will be reviewed annually for currency. The responsibility for negotiating Basic Agreements with appropriate educational institutions and nonprofit organizations for DoD is assigned to the Office of Naval Research, 800 North Quincy Street, Arlington, Virginia. Copies of the agreements will be maintained by the Office of Naval Research and provided to DoD and other purchasing activities upon their request. The Office of Naval Research will periodically provide a listing of current Basic Agreements to the ASPR Committee for publication in a Defense Procurement Circular.

(b) DoD activities shall obtain and utilize existing Basic Agreements to the maximum practical extent in contracts with educational institutions and nonprofit organizations. A special clause requirement may be incorporated into Section J - *Special Provisions* - of the standard contract format, whereas, the Basic Agreement is incorporated by reference in Section L *General Provisions*. Therefore, the need for special clauses should not preclude the purchasing office from utilizing these Basic Agreements.

(c) The General Services Administration will issue Federal Procurement Regulation Bulletins periodically which will list Basic Agreements issued by all agencies. The Bulletin will show the office from whom copies of the agreement can be obtained. DoD purchasing activities are encouraged to utilize Basic Agreements of other agencies where one has not been issued by the Office of Naval Research.

SPECIAL TYPES AND METHODS OF PROCUREMENT**Part 2—RESERVED**

[The next page is 4:29.]

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thereof, unless one or more extensions in writing are granted by the Contracting Officer upon written request of the Contractor within such one year period or authorized extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(3) Costs claimed, agreed to, or determined pursuant to (c) above and (e) below shall be in accordance with the Section XV Contract Cost Principles and Procedures of the Armed Services Procurement Regulation as in effect on the date of this contract.

(e) Subject to the provisions of paragraph (c) above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the termination under this clause, which amount or amounts may include any reasonable cancellation charges thereby incurred by the Contractor and any reasonable loss upon outstanding commitments for personal services which he is unable to cancel; *provided*, however, that in connection with any outstanding commitments for personal services which the Contractor is unable to cancel, the Contractor shall have exercised reasonable diligence to divert such commitments to his other activities and operations. Any such agreement shall be embodied in an amendment to this contract and the Contractor shall be paid the agreed amount.

(f) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the terminated portion of this contract, whenever, in the opinion of the Contracting Officer, the aggregate of such payments is within the amount to which the Contractor will be entitled hereunder.

(g) The Contractor agrees to transfer title and deliver to the Government, in the manner, at the time, and to the extent, if any, directed by the Contracting Officer, such information and items which, if the contract had been completed, would have been required to be furnished to the Government, including:

- (i) completed or partially completed plans, drawings and information; and
- (ii) materials or equipment produced or in process or acquired in connection with the performance of the work terminated by the notice.

Other than the above, any termination inventory resulting from the termination of the contract may, with the written approval of the Contracting Officer, be sold or acquired by the Contractor under the conditions prescribed by and at a price or prices approved by the Contracting Officer. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of work covered by this contract or paid in such other manner as the Contracting Officer may direct. Pending final disposition of property arising from the termination, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest.

(h) Any disputes as to questions of fact which may arise hereunder shall be subject to the "Disputes" clause of this contract.

(End of clause)

(d) The clause in (b) above suitably altered to indicate the relationship between the prime contractor and subcontractor is suggested for use in subcontracts placed with educational institutions and when modified as prescribed in (c) above for use with other nonprofit institutions; *provided*, such subcontracts incorporate, or are negotiated on the basis of, the cost principles set forth in Section XV; and *provided further*, such subcontracts are placed on the no-fee or no-profit basis.

7-302.11 *Disputes*. In accordance with 7-103.12, insert the clause therein.

7-302.12 *Reserved*.

7-302.12

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7-302.13 *Buy American Act*. In accordance with 7-104.3, insert the clause therein. When the contract involves construction work, in accordance with 7-602.20 and 7-602.24 also insert the clauses therein.

7-302.14 *Convict Labor*. In accordance with 12-203, insert the clause in 7-104.17.

7-302.15 *Walsh-Healey Public Contracts Act*. In accordance with Section XII, Part 6, insert the clause in 7-103.17.

7-302.16 *Contract Work Hours and Safety Standards Act—Overtime Compensation*. In accordance with 12-301, 12-302, and 12-306, insert the clauses in 7-103.16.

7-302.17 *Equal Opportunity*. In accordance with 12-807.1, insert the applicable clause in 7-103.18.

7-302.18 *Officials Not To Benefit*. Insert the clause in 7-103.19.

7-302.19 *Covenant Against Contingent Fees*. Insert the clause in 7-103.20.

7-302.20 *Gratuities*. In accordance with 7-104.16, insert the clause therein.

7-302.21 *Authorization and Consent*. In accordance with 9-102, insert the following clause or the clause in 7-103.22 as appropriate.

AUTHORIZATION AND CONSENT (1961 JAN)

The Government hereby gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract).

(End of clause)

7-302.22 *Notice and Assistance Regarding Patent Infringement*. In accordance with 9-104, insert the clause in 7-103.23.

7-302.23 *Clauses for Domestic Contracts*.

(a) *Patent Rights clause - Acquisition by the Government (Long Form)*. When a contract is determined to fall within 9-701.3(a)(2), the following clause shall be included in the contract.

PATENT RIGHTS - ACQUISITION BY THE GOVERNMENT (LONG FORM) (1981 JUL)

(a) *Definitions*.

(1) "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(2) "Contract" means any contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work.

(3) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(4) "Government agency" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(5) "To bring to the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

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(b) Allocation of principal rights.

(1) *Assignment to the Government.* The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are retained by the Contractor under paragraphs (b)(2) and (d) of this clause.

(2) *Greater Rights Determinations.* The Contractor, or the employee-inventor with authorization of the Contractor, may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of DAR 9-703.6. A request for a determination of whether the Contractor or the employee-inventor is entitled to retain such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (e)(2)(i) of this clause, or not later than three (3) months thereafter, or such longer period as may be authorized in writing by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in DAR 9-703.6(a). Each determination of greater rights under this contract normally shall be subject to paragraph (c) of this clause and to the reservations and conditions deemed to be appropriate by the Contracting Officer.

(c) *Minimum rights acquired by the Government.* With respect to each Subject Invention to which the Contractor retains principal or exclusive rights, the Contractor:

(i) hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and the States and domestic municipal governments;

(ii) agrees to grant to responsible applicants, upon request of the Government, a license on terms that are reasonable under the circumstances;

(A) unless the Contractor, his licensee, or his assignee, demonstrates to the Government that effective steps have been taken within three (3) years after a patent issues on such invention to bring the invention to the point of practical application or that the invention has been made available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why the principal or exclusive rights should be retained for a further period of time; or

(B) to the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill public health, welfare or safety needs, or for other public purposes stipulated in this contract;

(iii) shall submit written reports at reasonable intervals, upon request of the Government, during the term of the patent on the Subject Invention, regarding:

(A) the commercial use that is being made or is intended to be made of such invention; and

(B) the steps taken by the Contractor or his transferee to bring the invention to the point of practical application, or to make the invention available for licensing;

(iv) agrees to arrange, when licensing any subject inventions, to avoid royalty charges on procurements involving Government funds, including funds derived through the Military Assistance Program of the Government or otherwise derived through the Government, and to refund any amounts received as royalty charges on any Subject Invention in procurements for, or on behalf of, the Government, and to provide for such refund in any instrument transferring rights in such invention to any party; and

(v) agrees to provide for the Government's paid-up license pursuant to paragraph (c)(i) of this clause in any instrument transferring rights in a Subject Invention and to provide for the granting of licenses as required by (c)(ii) of this clause, and for the reporting of utilization information as required by paragraph (c)(iii) of this clause whenever the instrument transfers principal or exclusive rights in any Subject Invention.

Nothing contained in this paragraph (c) shall be deemed to grant to the Government any rights with respect to any invention other than a Subject Invention.

(d) *Minimum rights to the Contractor.*

(1) The Contractor reserves a revocable, nonexclusive, royalty-free license in each patent application filed in any country on a Subject Invention and any resulting patent in which the Government acquires title. The license shall extend to the Contractor's domestic subsidiaries and

7-302.23

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affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be transferable only with approval of the Contracting Officer, except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic nonexclusive license retained pursuant to paragraph (d)(1) of this clause may be revoked or modified to the extent necessary to achieve expeditious practical application of the Subject Invention. The license shall not be revoked in that field of use and/or the geographical areas in which the contractor has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public. The Contractor's nonexclusive license in any foreign country reserved pursuant to paragraph (d)(1) of this clause may be revoked or modified at the discretion of the Contracting Officer to the extent the Contractor or his domestic subsidiaries or affiliates have failed to achieve the practical application of the invention in such foreign country.

(3) Before modification or revocation of the license, pursuant to paragraph (d)(2) of this clause, the Contractor shall be given written notice of the intent to modify or revoke the license and shall be allowed thirty (30) days or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor after such notice to show cause why the license should not be modified or revoked. The Contractor shall have the right to contest any decision concerning the modification or revocation of the license in accordance with Departmental inventions licensing regulations.

(e) Invention identification, disclosures and reports.

(1) The Contractor shall establish and maintain active and effective procedures to assure that Subject Inventions are promptly identified and timely disclosed. These procedures shall include the maintenance of laboratory notebooks or equivalent records and other records as are reasonably necessary to document the conception and/or the first actual reduction to practice of Subject Inventions, and records which show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of such procedures so that he may evaluate and determine their effectiveness.

(2) The Contractor shall furnish the Contracting Officer:

(i) a complete technical disclosure for each Subject Invention, within six (6) months after conception or first actual reduction to practice, whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of such invention known to the Contractor. The disclosure shall identify the contract and inventor(s) and be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains, a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) interim reports, preferably on DD Form 882, at least every twelve (12) months from the date of the contract listing Subject Inventions during that period and certifying that:

(A) the Contractor's procedures for identifying and disclosing Subject Inventions as required by this paragraph (e) have been followed throughout the reporting period; and

(B) all Subject Inventions have been disclosed or that there are no such inventions; and

(iii) a final report, preferably on DD Form 882, within three (3) months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(3) The Contractor shall obtain patent agreements to effectuate the provisions of this clause from all persons in his employ who perform any part of the work under this contract except non-technical personnel, such as clerical and manual labor personnel.

(4) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.

(f) *Forfeiture of rights in unreported Subject Inventions.*

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(1) The Contractor shall forfeit to the Government all rights in any Subject Invention which he fails to disclose to the Contracting Officer within six (6) months after the time he:

- (i) files or causes to be filed a United States or foreign application thereon; or
- (ii) submits the final report required by paragraph (e)(2)(iii) of this clause, whichever is later.

(2) However, the Contractor shall not forfeit rights in a Subject Invention if, within the time specified in (1)(i) or (1)(ii) of this paragraph (f), the Contractor:

- (i) prepared a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the contract; or
- (ii) contending that the invention is not a Subject Invention, he nevertheless discloses the invention and all facts pertinent to his contention to the Contracting Officer; or
- (iii) establishes that the failure to disclose did not result from his fault or negligence.

(3) Pending written assignment of the patent applications and patents on a Subject Invention determined by the Contracting Officer to be forfeited (such determination to be a final decision under the Disputes clause), the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (f) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to Subject Inventions.

(g) Examination of records relating to inventions.

(1) The Contracting Officer or his authorized representative shall, until the expiration of three (3) years after final payment under this contract, have the right to examine any books (including laboratory notebooks), records, documents, and other supporting data of the Contractor which the Contracting Officer reasonably deems pertinent to the discovery or identification of Subject Inventions or to determine compliance with the requirements of this clause.

(2) The Contracting Officer or his authorized representative shall have the right to examine all books (including laboratory notebooks), records, and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract, to determine whether any such inventions are Subject Inventions if the Contractor refuses or fails to:

- (i) establish the procedures of paragraph (e)(1) of this clause; or
- (ii) maintain and follow such procedures; or
- (iii) correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(h) Withholding of payment (not applicable to subcontracts).

(1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not exceeding \$50,000 or five percent (5%) of the amount of this contract, whichever is less, shall have been set aside in his opinion the Contractor fails to:

- (i) establish, maintain and follow effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph (e)(1) of this clause; or
- (ii) disclose any Subject Invention pursuant to paragraph (e)(2)(i) of this clause; or
- (iii) deliver acceptable interim reports pursuant to paragraph (e)(2)(ii) of this clause; or
- (iv) provide the information regarding subcontracts pursuant to paragraph (i)(5) of this clause.

Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(2) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of Subject Inventions required by paragraph (e)(2)(i) of this clause, an acceptable final report pursuant to (e)(2)(iii) of this clause and all past due confirmatory instruments.

(3) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit organization, the maximum amount that may be withheld under this paragraph shall not exceed \$50,000 or one percent (1%) of the amount of this contract, whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of

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the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) Subcontracts.

(1) The Contractor shall include a patent rights clause, suitably modified to identify the parties, in all subcontracts awarded hereunder, regardless of tier, for the performance of experimental, developmental, or research work. The subcontractor shall retain all rights provided for the Contractor in any such clause.

(2) In every subcontract awarded hereunder to be performed by a small business firm or nonprofit organization in the United States, its possessions, or Puerto Rico having as a purpose the conduct of experimental, developmental, or research work, the Contractor shall include the patent rights clause of DAR 7-302.23(h) in accordance with the policies and procedures set forth in DAR 9-702.

(3) In every subcontract awarded hereunder to be performed by other than a small business firm or nonprofit organization having as a purpose the conduct of experimental, developmental, or research work, the Contractor shall include one of the patent rights clauses of DAR 7-302.23(a), (b) or (c) determined by the Contractor to be in accordance with the policy expressed in DAR 9-701.2, unless the Contractor is directed by the Government Contracting Officer to include a particular clause. In the event of refusal by a subcontractor to accept such clause, the Contractor:

- (i) shall promptly submit a written notice to the Government Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information which may expedite disposition of the matter; and
- (ii) shall not proceed with the subcontract without the written authorization of the Government Contracting Officer.

(4) The Contractor shall not, in any subcontract or by using a subcontract as consideration therefor, acquire any rights in his subcontractor's Subject Invention for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of this contract).

(5) All invention disclosures, reports, instruments, and other information required to be furnished by the subcontractor to the Government Contracting Officer under the provisions of a patent rights clause in any subcontract hereunder may, in the discretion of the Government Contracting Officer, be furnished to the Contractor for transmission to the Government Contracting Officer.

(6) The Contractor shall promptly notify the Government Contracting Officer in writing upon the award of any subcontract containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Government Contracting Officer, the Contractor shall furnish a copy of the subcontract. If there are no subcontracts containing patent rights clauses, a negative report shall be included in the final report submitted pursuant to paragraph (e)(2)(iii) of this clause.

(7) The Contractor shall identify all Subject Inventions of the Subcontractor of which he acquires knowledge in the performance of this contract and shall notify the Government Contracting Officer promptly upon the identification of the inventions.

(8) It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns

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to the Government all rights that he would have to enforce the subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any subcontractor hereunder relating to the obligations of the subcontractor to the Government in regard to Subject Inventions.
(End of clause)

(b) *Patent Rights Clause - Retention by the Contractor (Long Form).* When a contract is determined to fall within 9-701.3(a)(3), the following clause shall be included in the contract.

PATENT RIGHTS - RETENTION BY THE CONTRACTOR (LONG FORM) (1981 JUL)

(a) Definitions.

(1) "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

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- (2) The Contractor shall furnish the Contracting Officer
- (i) a complete technical disclosure for each Subject Invention, within six (6) months after conception or first actual reduction to practice, whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of such invention known to the Contractor. The disclosure shall identify the contract and inventor(s) and be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains, a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;
 - (ii) interim reports, preferably on DD Form 882, at least every twelve (12) months from the date of the contract listing Subject Inventions during that period and certifying that:
 - (A) the Contractor's procedures for identifying and disclosing Subject Inventions as required by this paragraph (e) have been followed throughout the reporting period, and
 - (B) all Subject Inventions have been disclosed or that there are no such inventions; and
 - (iii) a final report, preferably on DD Form 882, within three (3) months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.
 - (3) The Contractor shall obtain patent agreements to effectuate the provisions of this clause from all persons in his employ who perform any part of the work under this contract except non-technical personnel, such as clerical and manual labor personnel.
 - (4) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers furnished or required to be furnished pursuant to this clause.
 - (f) *Forfeiture of rights in unreported Subject Inventions.*
 - (1) The Contractor shall forfeit to the Government all rights in any Subject Invention which he fails to disclose to the Contracting Officer within six (6) months after the time he:
 - (i) files or causes to be filed a United States or foreign application thereon, or
 - (ii) submits the final report required by paragraph (e)(2)(iii) of this clause, whichever is later
 - (2) However, the Contractor shall not forfeit rights in a Subject Invention if, within the time specified in (1)(i) or (1)(ii) of this paragraph (f), the Contractor:
 - (i) prepared a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the contract; or
 - (ii) contending that the invention is not a Subject Invention, he nevertheless discloses the invention and all facts pertinent to his contention to the Contracting Officer; or
 - (iii) establishes that the failure to disclose did not result from his fault or negligence.
 - (3) Pending written assignment of the patent applications and patents on a Subject Invention determined by the Contracting Officer to be forfeited (such determination to be a final decision under the Disputes clause), the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (f) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to Subject Inventions.
 - (g) *Examination of records relating to inventions.*
 - (1) The Contracting Officer or his authorized representative shall, until the expiration of three (3) years after final payment under this contract, have the right to examine any books (including laboratory notebooks), records, documents, and other supporting data of the Contractor which the Contracting Officer reasonably deems pertinent to the discovery or identification of Subject Inventions or to determine compliance with the requirements of this clause
 - (2) The Contracting Officer or his authorized representative shall have the right to examine all books (including laboratory notebooks), records, and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract, to determine whether any such inventions are Subject Inventions if the Contractor refuses or fails to:

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- (i) establish the procedures of paragraph (e)(1) of this clause; or
- (ii) maintain and follow such procedures; or
- (iii) correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(b) Withholding of payment (not applicable to subcontracts).

- (1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not exceeding \$50,000 or five percent (5%) of the amount of this contract, whichever is less, shall have been set aside if in his opinion the Contractor fails to:

- (i) establish, maintain and follow effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph (e)(1) of this clause; or
- (ii) disclose any Subject Invention pursuant to paragraph (e)(2)(i) of this clause; or
- (iii) deliver acceptable interim reports pursuant to paragraph (e)(2)(ii) of this clause; or
- (iv) provide the information regarding subcontracts pursuant to paragraph (i)(5) of this clause.

Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

- (2) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of Subject Inventions required by paragraph (e)(2)(i) of this clause, an acceptable final report pursuant to (e)(2)(iii) of this clause and all past due confirmatory instruments.

- (3) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit organization, the maximum amount that may be withheld under this paragraph shall not exceed \$50,000 or one percent (1%) of the amount of this contract, whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) Subcontracts.

- (1) The Contractor shall include a patent rights clause, suitably modified to identify the parties, in all subcontracts awarded hereunder, regardless of tier, for the performance of experimental, developmental, or research work. The subcontractor shall retain all rights provided for the Contractor in any such clause.

- (2) In every subcontract awarded hereunder to be performed by a small business firm or nonprofit organization in the United States, its possessions, or Puerto Rico having as a purpose the conduct of experimental, developmental, or research work, the Contractor shall include the patent rights clause of DAR 7-302.23(h) in accordance with the policies and procedures set forth in DAR 9-702.

- (3) In every subcontract awarded hereunder to be performed by other than a small business firm or nonprofit organization having as a purpose the conduct of experimental, developmental, or research work, the Contractor shall include one of the patent rights clauses of DAR 7-302.23(a), (b) or (c) determined by the Contractor to be in accordance with the policy expressed in DAR 9-701.2, unless the Contractor is directed by the Government Contracting Officer to include a particular clause. In

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the event of refusal by a subcontractor to accept such clause, the Contractor.

- (i) shall promptly submit a written notice to the Government Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information which may expedite disposition of the matter; and

- (ii) shall not proceed with the subcontract without the written authorization of the Government Contracting Officer.

- (4) The Contractor shall not, in any subcontract or by using a subcontract as consideration therefor, acquire any rights in his subcontractor's Subject Invention for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of this contract).

- (5) All invention disclosures, reports, instruments, and other information required to be furnished by the subcontractor to the Government Contracting Officer under the provisions of a patent rights clause in any subcontract hereunder may, in the discretion of the Government Contracting Officer, be furnished to the Contractor for transmission to the Government Contracting Officer.

- (6) The Contractor shall promptly notify the Government Contracting Officer in writing upon the award of any subcontract containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Government Contracting Officer, the Contractor shall furnish a copy of the subcontract. If there are no subcontracts containing patent rights clauses, a negative report shall be included in the final report submitted pursuant to paragraph (e)(2)(iii) of this clause.

- (7) The Contractor shall identify all Subject Inventions of the Subcontractor of which he acquires knowledge in the performance of this contract and shall notify the Government Contracting Officer promptly upon the identification of the inventions.

- (8) It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Government all rights that he would have to enforce the subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any subcontractor hereunder relating to the obligations of the subcontractor to the Government in regard to Subject Inventions.

(j) Filing of domestic patent applications.

- (1) With respect to each Subject Invention in which the Contractor elects to retain domestic rights pursuant to paragraph (b) of this clause, the Contractor shall have a domestic patent application filed within six (6) months after submission of the invention disclosure pursuant to paragraph (e)(2)(i) of this clause, or such longer period as may be approved in writing by the Contracting Officer for good cause shown in writing by the Contractor. With respect to such invention, the Contractor shall promptly notify the Contracting Officer of any decision not to file an application.

- (2) For each Subject Invention on which a patent application is filed by or on behalf of the Contractor, the Contractor shall:

- (i) within two (2) months after such filing, or within two (2) months after submission of the invention disclosure if the patent application previously has been filed, deliver to the Contracting Officer a copy of the application as filed, including the filing date and serial number;

- (ii) include the following statement in the second paragraph of the specification of the application and any patents issued on the Subject Invention: "The Government has rights in this invention pursuant to Contract (or Grant) No. awarded by (Identify the Department)";

- (iii) within six (6) months after filing the application, or within (6) months after submitting the invention disclosure if the application has been filed previously, deliver to the Contracting Officer a duly executed and approved instrument on the form specified in DAR 9-703.5(b) fully confirmatory of all rights to which the Government is entitled, and provide the Government an irrevocable power to inspect and make copies of the patent application file;

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- (iii) such longer period as may be approved in writing by the Contracting Officer.
- (2) The Contractor shall notify the Contracting Officer promptly of each foreign application filed and, upon written request, shall furnish an English version of such foreign application without additional compensation.

(End of clause)

(c) *Patent Rights Clause - Deferred (Long Form)*. When a contract is determined to fall within 9-701.3(a)(4), the following clause shall be included in the contract.

PATENT RIGHTS - DEFERRED (LONG FORM) (1981 JUL)

(a) Definitions.

- (1) "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.
- (2) "Contract" means any contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work.
- (3) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands; and any political subdivision and agencies thereof.
- (4) "Government agency" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.
- (5) "To bring to the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(b) Allocation of principal rights.

- (1) *Assignment to the Government*. After a Subject Invention is identified, the Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to the Subject Invention except to the extent that greater rights are retained under paragraphs (b)(2) and (d) of this clause.
- (2) *Greater Rights Determinations*. The Contractor, or the employee-inventor with authorization of the Contractor, may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of DAR 9-703.6. A request for a determination of whether the Contractor or the employee-inventor is entitled to retain such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (e)(2)(i) of this clause, or not later than three (3) months thereafter, or such longer period as may be authorized in writing by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in DAR 9-703.6(a). Each determination of greater rights under this contract normally shall be subject to paragraph (c) of this clause and to the reservations and conditions deemed to be appropriate by the Contracting Officer.
- (c) *Minimum rights acquired by the Government*. With respect to each Subject Invention to which the Contractor retains principal or exclusive rights, the Contractor:
- hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and the States and domestic municipal governments;
 - agrees to grant to responsible applicants, upon request of the Government, a license on terms that are reasonable under the circumstances;

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- (iv) provide the Contracting Officer with a copy of the patent within two (2) months after a patent issues on the application; and
- (v) not less than thirty (30) days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the Contracting Officer of any decision not to continue prosecution of the application and deliver to the Contracting Officer executed instruments granting the Government a power of attorney.

(3) For each Subject Invention in which the Contractor initially elects not to retain principal domestic rights, the Contractor shall inform the Contracting Officer promptly in writing of the date and identity of any on sale, public use, or publication of such invention which may constitute a statutory bar under 35 U.S.C. 102, which was authorized by or known to the Contractor, or any contemplated action of this nature.

(k) Filing of foreign patent applications.

- (1) With respect to each Subject Invention in which the Contractor elects to retain principal rights in a foreign country pursuant to paragraph (b)(1) of this clause, the Contractor shall have a patent application filed on the invention in such country, in accordance with applicable statutes and regulations, and within one of the following periods:
- eight (8) months from the date of a corresponding United States application filed by or on behalf of the Contractor; or if such an application is not filed, six (6) months from the date the invention is submitted in a disclosure pursuant to paragraph (e)(2)(i) of this clause;
 - six (6) months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign applications when such filing has been prohibited by security reasons; or

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shall include one of the patent rights clauses of DAR 7-302.23(a), (b) or (c) determined by the Contractor to be in accordance with the policy expressed in DAR 9-701.2, unless the Contractor is directed by the Government Contracting Officer to include a particular clause. In the event of refusal by a subcontractor to accept such clause, the Contractor:

- (i) shall promptly submit a written notice to the Government Contracting Officer setting forth the subcontractor's reasons for such refusal and other pertinent information which may expedite disposition of the matter; and
- (ii) shall not proceed with the subcontract without the written authorization of the Government Contracting Officer.

(4) The Contractor shall not, in any subcontract or by using a subcontract as consideration therefor, acquire any rights in his subcontractor's Subject Invention for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of this contract).

(5) All invention disclosures, reports, instruments, and other information required to be furnished by the subcontractor to the Government Contracting Officer under the provisions of a patent rights clause in any subcontract hereunder may, in the discretion of the Government Contracting Officer, be furnished to the Contractor for transmission to the Government Contracting Officer.

(6) The Contractor shall promptly notify the Government Contracting Officer in writing upon the award of any subcontract containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon request of the Government Contracting Officer, the Contractor shall furnish a copy of the subcontract. If there are no subcontracts containing patent rights clauses, a negative report shall be included in the final report submitted pursuant to paragraph (e)(2)(iii) of this clause.

(7) The Contractor shall identify all Subject Inventions of the Subcontractor of which he acquires knowledge in the performance of this contract and shall notify the Government Contracting Officer promptly upon the identification of the inventions.

(8) It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Government all rights that he would have to enforce the subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any subcontractor hereunder relating to the obligations of the subcontractor to the Government in regard to Subject Inventions.

(End of clause)

(d) Reserved.

(e) *Contracts relating to Atomic Energy.* Add the following paragraph to the applicable patent rights clause (see 9-701.7).

In addition to the foregoing provisions, the Contractor agrees:

- (i) to identify and call to the attention of the Contracting Officer each Subject Invention made by employees of the Contractor (except nontechnical personnel, such as clerical employees and manual laborers) and which relates to the production or utilization of special nuclear material or atomic energy within the purview of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2011-2296);
- (ii) to furnish through the Contracting Officer to the Department of Energy (DOE) the required disclosure regarding each Subject Invention under (i) of this paragraph;
- (iii) DOE shall have the sole power to determine whether and where a patent application relating to a Subject Invention under (i) of this paragraph shall be filed, and to determine the disposition of the title to and rights under any such application or any patent that may issue thereon. Any request for greater rights to a Subject Invention shall be made in accordance with the provisions of 41 CFR 9-9.109-6;

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(2) The Contracting Officer or his authorized representative shall have the right to examine all books (including laboratory notebooks), records, and documents of the Contractor relating to the conception or first actual reduction to practice of inventions in the same field of technology as the work under this contract, to determine whether any such inventions are Subject Inventions if the Contractor refuses or fails to:

- (i) establish the procedures of paragraph (e)(1) of this clause; or
- (ii) maintain and follow such procedures; or
- (iii) correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(b) *Withholding of payment (not applicable to subcontracts).*

(1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not exceeding \$50,000 or five percent (5%) of the amount of this contract, whichever is less, shall have been set aside if in his opinion the Contractor fails to:

- (i) establish, maintain and follow effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph (e)(1) of this clause; or
- (ii) disclose any Subject Invention pursuant to paragraph (e)(2)(i) of this clause; or
- (iii) deliver acceptable interim reports pursuant to paragraph (e)(2)(ii) of this clause; or
- (iv) provide the information regarding subcontracts pursuant to paragraph (i)(5) of this clause.

Such reserve or balance shall be withheld until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(2) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of Subject Inventions required by paragraph (e)(2)(i) of this clause, an acceptable final report pursuant to (e)(2)(iii) of this clause and all past due confirmatory instruments.

(3) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit organization, the maximum amount that may be withheld under this paragraph shall not exceed \$50,000 or one percent (1%) of the amount of this contract, whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) *Subcontracts.*

(1) The Contractor shall include a patent rights clause, suitably modified to identify the parties, in all subcontracts awarded hereunder, regardless of tier, for the performance of experimental, developmental, or research work. The subcontractor shall retain all rights provided for the Contractor in any such clause.

(2) In every subcontract awarded hereunder to be performed by a small business firm or nonprofit organization in the United States, its possessions, or Puerto Rico having as a purpose the conduct of experimental, developmental, or research work, the Contractor shall include the patent rights clause of DAR 7-302.23(h) in accordance with the policies and procedures set forth in DAR 9-702.

(3) In every subcontract awarded hereunder to be performed by other than a small business firm or nonprofit organization having as a purpose the conduct of experimental, developmental, or research work, the Contractor

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the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

(4) *Made*, when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

(5) *Small business firm* means a small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standard for small business concerns involved in Government procurement, contained in 13 CFR 121.3-8, and in subcontracting, contained in 13 CFR 121.3-12, will be used.

(6) *Nonprofit organization* means universities and other institutions of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501a) or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

(b) *Allocation of Principal Rights*. The Contractor may retain the entire right, title, and interest throughout the world to each Subject Invention subject to the provisions of this clause. With respect to any Subject Invention in which the Contractor retains title, the Government shall have a nonexclusive, non-transferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any Subject Invention throughout the world for which the Contractor has elected to retain title.

(c) *Invention Disclosures, Election of Title, Filing of Patent Applications, Confirmatory Instruments and Reports*.

(1) After a Subject Invention has been disclosed in writing by the inventor(s) to contractor personnel responsible for the administration of patent matters, the Contractor shall:

- (i) disclose such invention to the Contracting Officer within six (6) months;
- (ii) elect whether or not to retain title to any such invention by notifying the Contracting Officer

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(iv) to obtain the execution of and delivery to DOE of all required documents relating to each Subject Invention under (i) of this paragraph and to do all other things requested, necessary, or proper to carry out any determination of DOE made under (iii) of this paragraph; and

(v) unless otherwise authorized in writing by the Contracting Officer, to include this paragraph in the Patent Rights clause of all subcontracts.

No claim for pecuniary award or compensation under the provisions of the Atomic Energy Act of 1954, as amended, shall be asserted by the Contractor or his employees with respect to any Subject Invention covered by this paragraph. (1977 DEC)

(f) *Contracts placed for Other Government Agencies*. The agency will provide any necessary patent rights clause. See 9-701.8.

(g) *Contracts relating to Space*. When considered appropriate under 9-701.9, the following paragraph (c)(i) shall be substituted for the corresponding paragraph of the Patent Rights clause of 7-302.23(a), (b) or (c) to be included in a contract.

(c)(i) hereby grants to the Government a paid-up, nonexclusive and royalty-free license to practice and have practiced each Subject Invention (made by the Contractor) throughout the world by or on behalf of the Government, States, and municipal governments, including the practice of each such Subject Invention (i) in the manufacture, use, and disposition of any article or material, (ii) in the use of any method, or (iii) in the performance of any service, acquired by or for the Government or with funds derived through the Military Assistance Program of the Government or funds otherwise derived through the Government. In addition, the Government shall have the right to grant licenses to others, under such terms and conditions as may be prescribed, for the practice of such Subject Invention throughout the world in the design, development, manufacture, operation, maintenance and testing of communications satellite systems, and of equipment, components, and ground tracking, transmitting and receiving facilities therefor. (1975 AUG)

(End of clause paragraph)

(h) *Patent Rights Clause - Small Business Firm or Non-profit Organization*. In accordance with 9-702.3(a), the following clause shall be included in all contracts with small business firms and nonprofit organizations for the performance in the United States, its possessions, or Puerto Rico, of experimental, developmental, or research work, unless the contract provides otherwise pursuant to one of the exceptions in 9-702.3(a)(1).

PATENT RIGHTS - SMALL BUSINESS FIRM OR NONPROFIT ORGANIZATION (1981 JUL)

(a) *Definitions*.

(1) *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code.

(2) *Subject Invention* means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract.

(3) *Practical application* means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in

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filed in a language other than English), and (C) the patent number and issue date for any Subject Invention in any country for which the Contractor has retained title.

(2) Notwithstanding the requirements of subparagraph (c)(1) above:

(i) disclosure to the Contracting Officer shall be made immediately after contractor personnel responsible for the administration of patent matters become aware of any manuscript describing the invention accepted for publication, or any publication, on sale, or public use of such invention; and

(ii) in any case where publication, on sale, or public use has initiated the one-year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title and filing of a United States patent application may be shortened by the Contracting Officer to a date that is no more than forty-five (45) days prior to the end of the statutory period.

(3) Requests for extension of the time for disclosure to the Contracting Officer, election and filing, where reasonable, shall normally be granted.

(4) The disclosure to the Contracting Officer shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological or electrical characteristics of the invention. The report shall also identify any publication, on sale, or public use of the invention and shall state whether a manuscript describing the invention has been submitted for publication and accepted at the time of disclosure.

(5) The Contractor shall furnish the Contracting Officer:

(1) interim reports, preferably on DD Form 882, every twelve (12) months from the date of the contract,

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within twelve (12) months of disclosure to the Contractor, but in any event, at least three (3) months (unless shortened by the Contracting Officer) before (A) a public use or on sale of the invention occurs, (B) a manuscript describing the invention is submitted for publication without assurances of confidentiality, or (C) the invention is otherwise made available to the public;

(iii) file its initial patent application on an elected invention within two (2) years after election;

(iv) file patent applications in additional countries within either ten (10) months of the corresponding initial patent application, or six (6) months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign patent applications when such filing was prohibited for security reasons;

(v) within six (6) months after filing each patent application, or within six (6) months after submitting the invention disclosure to the Contracting Officer, if the application has been previously filed, deliver to the Contracting Officer a duly executed and approved instrument on the form specified in DAR 9-703.5(b), fully confirmatory of all rights to which the Government is entitled, and furnish the Government an irrevocable power to inspect and make copies of the patent application file; and

(vi) furnish to the Contracting Officer, upon request, (A) the filing date, serial number and title, (B) a copy of the patent application (including an English-language version, if

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listing Subject Inventions that were disclosed in writing during that period by the inventor(s) to contractor personnel responsible for the administration of patent matters, or stating that there were no such inventions; and

- (ii) a final report, preferably on DD Form 882, within six (6) months after completion of work under the contract, listing all Subject Inventions that were made during performance of the work under the contract, or stating that there were no such inventions.

(d) *Forfeiture of Title.* The Contractor shall convey to the Contracting Officer, upon written request, title to any Subject Invention:

- (i) if the Contractor fails to disclose or elect the Subject Invention within the times specified in (c) above, or elects not to retain title;
- (ii) in those countries in which the Contractor fails to file patent applications within the times specified in (c) above; *provided*, however, that if the Contractor filed a patent application in a country after the times specified in (c) above but prior to its receipt of the written request, the Contractor shall continue to retain title in that country; or
- (iii) in any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in a reexamination or opposition proceeding on, a patent on a Subject Invention.

(e) *Minimum Rights to Contractor.* The Contractor shall retain a nonexclusive, royalty-free, license throughout the world in each Subject Invention to which the Government obtains title, except if the Contractor fails to disclose the Subject Invention within the times specified in (c) above. This license extends and is revocable and transferable as specified in DAR 9-702.3.

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(f) *Contractor Action to Protect Government's Interest.*

(1) The Contractor agrees to execute or to have executed and promptly deliver to the Contracting Officer all instruments necessary to:

- (i) establish or confirm the rights the Government has throughout the world in those Subject Inventions for which the Contractor retains title; and
- (ii) convey title to the Government when requested under paragraph (d) above to enable the Government to obtain patent protection throughout the world on that Subject Invention.

(2) The Contractor agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing in a format suggested by the Contractor each Subject Invention made under this contract in order that the Contractor can comply with the disclosure provisions of paragraph (c) above and to execute all papers necessary to file patent applications on Subject Inventions and to establish the Government's rights to Subject Inventions. The disclosure format should require, as a minimum, the information requested by subparagraph (c)(4) above. The Contractor shall instruct such employees through the employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor shall notify the Contracting Officer of any decision not to continue prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty (30) days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a Subject Invention, the following statement:

This invention was made with Government support under (identify the contract) awarded by (identify the Department). The Government has certain rights in this invention.

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confidential and is so marked, the Government agrees that, to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

(i) *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any Subject Invention in the United States unless such person agrees that any products embodying the Subject Invention or produced through the use of the Subject Invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the contracting activity upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in Rights.* The Contractor agrees that with respect to any Subject Invention in which it has acquired title, the Government has the right, in accordance with the procedures set forth in DAR 9-702.8 and in any supplemental departmental regulations, to require the Contractor, an assignee or exclusive licensee of a Subject Invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, the Government has the right to grant such a license itself if the Secretary of the Department or his designee determines that:

- (i) such action is necessary because the Contractor, assignee or exclusive licensee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the Subject Invention in such field of use;
- (ii) such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

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(g) *Subcontracts.*

(1) The Contractor shall include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed within the United States by a small business firm or a nonprofit organization. The subcontractor shall retain all rights provided for the Contractor in this clause, and the Contractor shall not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's Subject Inventions.

(2) The Contractor shall include in all subcontracts, regardless of tier, for experimental, developmental, or research work with other than a small business firm or nonprofit organization, the appropriate patent rights clause required by DAR 9-701.

(3) The Contractor shall promptly notify the Contracting Officer in writing, preferably on DD Form 882, upon the award of any subcontract containing a patent rights clause by identifying the subcontractor, the applicable patent rights clause, the work to be performed under the subcontract, and the dates of award and estimated completion. Upon written request of the Contracting Officer, the Contractor shall furnish a copy of the subcontract. If there are no subcontracts containing a patent rights clause, this shall be stated in the final report submitted pursuant to subparagraph (c)(5)(ii) above.

(h) *Reporting on Utilization of Subject Inventions.*

The Contractor agrees to submit, on request, periodic reports no more frequently than annually on the utilization of a Subject Invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Contracting Officer may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Secretary of the Department or his designee in connection with any march-in proceeding undertaken by the Secretary of the Department or his designee in accordance with paragraph (j) of this clause. To the extent data or information supplied under this paragraph is considered by the Contractor, a licensee or assignee to be privileged and

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(iii) such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(iv) such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any Subject Invention in the United States is in breach of such agreement.

(k) *Special Provisions for Contracts with Nonprofit Organizations.* If the Contractor is a nonprofit organization, it agrees that:

(i) rights to a Subject Invention in the United States shall not be assigned without the approval of the Contracting Officer, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention (provided that such assignee will be subject to the same provisions as the Contractor);

(ii) the Contractor shall not grant exclusive licenses under United States patents or patent applications in Subject Inventions to persons other than small businesses firms for a period in excess of the earlier of (A) five (5) years from first commercial sale or use of the invention, or (B) eight (8) years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, the Contracting Officer approves a longer exclusive license. If exclusive field of use

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licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention;

(iii) the Contractor shall share any royalties collected on a Subject Invention with the inventor; and

(iv) the balance of any royalties or income earned by the Contractor with respect to Subject Inventions, after payment of expenses (including payments to inventors) incidental to the administration of Subject Inventions, shall be utilized for the support of scientific research or education.

(End of clause)

7-302.24 *Reserved.*

7-302.25 *Military Security Requirements.* Insert the Military Security Requirements clause in accordance with 7-104.12.

7-302.26 *Utilization of Labor Surplus Area Concerns.* In accordance with 1-805.3, insert the clauses in 7-104.20.

7-302.27 *Government Delay of Work.* Insert the clause in 7-104.77.

7-302.28 *Title and Risk of Loss.* Insert the clause in 7-103.6.

7-302.29 *Pricing of Adjustments.* Insert the clause in 7-103.26.

7-302.30 *Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era.* Insert the clause in 7-103.27.

7-302.31 *Affirmative Action for Handicapped Workers.* Insert the clause in 7-103.28.

7-302.32 *Clean Air and Water.* In accordance with 1-2302.2, insert the clause in 7-103.29.

7-303 *Clauses To Be Used When Applicable.*

7-303.1 *Clauses for Contracts Involving Construction Work.* In accordance with 7-602.23, 12-106, 18-701, and 18-703, insert the Labor Standards Provisions in 7-602.23.

7-303.2 *Filing of Patent Applications.* In accordance with 9-106, insert the clause in 7-104.6.

7-303.3 *Reporting and Refund of Royalties.* In accordance with 9-110(d) and 9-111, insert the appropriate clause or clauses in 7-104.8.

7-303.4 *Excess Profit.* In accordance with 7-104.11, insert the appropriate clause therein.

7-303.5 *Preference for Certain Domestic Commodities.* In accordance with 6-305, insert the clause in 7-104.13.

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7-303.6 *Priorities, Allocations, and Allotments.* In accordance with 1-307.2, insert the clause in 7-104.18.

7-303.7 *Government Property.* When the Government is to furnish, or the contractor is to acquire, Government property, insert the following clause if the contract is with an educational or nonprofit institution, if not, insert the appropriate clauses as provided in 7-104.24. Changes in the clause below, like those in 7-104.24(e), (f) and (g), may be made as therein provided.

GOVERNMENT PROPERTY (FIXED PRICE, NONPROFIT) (1972 SEP)

(a) *Government-furnished Property.* The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described as Government furnished property in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished property suitable for use (except for such property furnished "as is") will be delivered to the Contractor at the times stated in the Schedule, or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay, if any, occasioned the Contractor thereby, and shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by any such delay. Except for Government furnished property furnished "as is", in the event that Government-furnished property is received by the Contractor in a condition not suitable for its intended use, the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return such property at the Government's expense or otherwise dispose of such property, or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon timely written request of the Contractor shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision effected by the return, disposition, repair or modification. The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(b) *Changes in Government-furnished Property.*

(1) By notice in writing, the Contracting Officer may (i) decrease the property furnished or to be furnished by the Government under this contract, or (ii) substitute other Government-owned property for property to be furnished by the Government, or to be acquired by the Contractor for the Government, under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal, shipping, and disposal of property covered by such notice.

(2) In the event of any decrease in or substitution of property pursuant to paragraph (1) above, or any withdrawal of authority to use property provided under any other contract or lease, which property the Government had agreed in the Schedule to make available for the performance of this contract, the Contracting Officer, upon the written request of the Contractor (or, if the substitution of property causes a decrease in the cost of performance, on his own initiative), shall equitably adjust such contractual provisions as may be affected by the decrease, substitution or withdrawal, in accordance with the procedures provided in the "Changes" clause of this contract.

(c) *Title.*

(1) Title to all property furnished by the Government shall remain in the Government.

(2) Notwithstanding subparagraph (1) above, title to equipment purchased with funds available for research, having an acquisition cost of less than \$1,000, shall vest in the Contractor upon acquisition or as soon thereafter as feasible, provided that the Contractor shall have obtained approval of the Contracting Officer prior to acquisition of such property.

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(b) Insert the following additional paragraph to the clause in (a) above, in accordance with 23-201.2(d).

(k) Notwithstanding approval of the Contractor's procurement system, the Contractor shall not enter into certain subcontracts or classes of subcontracts set forth elsewhere in this contract without the prior written consent of the Contracting Officer. With respect to subcontracts so identified, the advance notification requirements of paragraph (a) above shall be fully applicable even though the Contractor's procurement system has been approved and those subcontracts are within the scope of the approval.

(c) In contracts with educational institutions, change "(iii)" in paragraph (a) of the clause in (a) above to read:

(iii) provides for the fabrication, purchase, rental, installation, or other acquisition of equipment or of industrial facilities. (1975 OCT)

(d) In accordance with 23-201.4, insert the Equal Opportunity Preaward Clearance of Subcontracts clause in 7-104.22.

7-402.9 *Utilization of Small Business and Small Disadvantaged Business Concerns.* In accordance with 1-707.3, insert one or more of the clauses in 7-104.14.

7-402.10 *Termination.* In accordance with 8-702 and 8-704, insert the appropriate clause set forth in either 7-203.10 or 7-302.10.

7-402.11 *Disputes.* In accordance with 7-103.12, insert the clause therein.

7-401.12 *Reserved.*

7-402.13 *Buy American Act.* In accordance with 7-104.3, insert the clause therein.

7-402.14 *Convict Labor.* In accordance with 12-201, insert the clause in 7-104.17.

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Part 5—Personal Services Contracts

7-500 Scope of Part. This Part sets forth uniform contract clauses for use in personal services contracts referred to in 7-502.

7-501 Reserved.

7-502 Applicability. As used throughout this Part, the term "personal services contract" applies only to a contract entered into with an individual, other than an alien scientist, for personal services to be performed by that individual under Government supervision and paid for on a time basis. It does not apply to contracts with firms or organizations.

7-503 Required Clauses. The following clauses shall be inserted in all personal services contracts, except as indicated:

7-503.1 Definitions. Insert the contract clause in 7-103.1, omitting subparagraph (c).

7-503.2 Payments.

PAYMENTS (1958 JAN)

Payment for the services performed by the Contractor, as set forth in the Schedule of this contract, shall be made at the rates prescribed, upon the submission by the Contractor of proper invoices or time statements to the office or officer designated herein and at the time provided for herein. In addition to the foregoing the Contractor shall be paid (i) a per diem rate in lieu of subsistence for each day the Contractor is in a travel status away from his home or regular place of employment in accordance with Standardized Government Travel Regulations as authorized in appropriate Travel Orders; and (ii) such other transportation expenses as may be provided for in the Schedule.

(End of clause)

7-503.3 Assignment of Claims.

ASSIGNMENT OF CLAIMS (1953 JAN)

No claim arising under this contract shall be transferred or assigned by the Contractor.

(End of clause)

7-503.4 Disputes. In accordance with 7-103.12, insert the clause therein.

7-503.5 Officials Not To Benefit. Insert the contract clause in 7-103.19 omitting the final phrase which begins, "but this provision ***."

7-503.6 Covenant Against Contingent Fees. Insert the contract clause in 7-103.20.

7-503.7 Termination.

TERMINATION (1953 JAN)

This contract may be terminated by the Government at any time within the period of its duration upon not less than 15 days' written notice by the Contracting Officer to the Contractor. The Contractor, with the written consent of the Contracting Officer, may terminate this contract upon not less than 15 days' written notice to the Contracting Officer, and the consent of the Contracting Officer shall not unreasonably be withheld.

(End of clause)

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7-402.15 Walsh-Healey Public Contracts Act. In accordance with Section XII, Part 6, insert the clause in 7-103.17.

7-402.16 Contract Work Hours and Safety Standards Act—Overtime Compensation. In accordance with 12-301, 12-302, and 12-306, insert the clauses in 7-103.16.

7-402.17 Equal Opportunity. In accordance with 12-807.1, insert the applicable clause in 7-103.18.

7-402.18 Officials Not To Benefit. In accordance with 7-103.19, insert the clause therein.

7-402.19 Covenant Against Contingent Fees. In accordance with 7-103.20, insert the clause therein.

7-402.20 Authorization and Consent. In accordance with 9-102, insert the clause in 7-302.21.

7-402.21 Notice and Assistance Regarding Patent and Copyright Infringement. In accordance with 9-104, insert the clause in 7-103.23.

7-402.22 Patent Rights. In accordance with 9-701, insert the appropriate clause as set forth in 7-302.23.

7-402.23 Reserved.

7-402.24 Military Security Requirements. Insert the Military Security Requirements clause in accordance with 7-104.12, modified in accordance with 7-204.12. In contracts without fee with educational institutions, add the following paragraphs (e), (f) and (g).

(e) In the event a change in security requirements, as provided in paragraphs (b) and (c), results (1) in a change in the security classification of this contract or any element thereof from an unclassified status to a classified status or from a lower classification to a higher classification, or (2) in more restrictive area controls than previously required, the Contractor shall exert every reasonable effort compatible with his established policies to continue the performance of work under the contract in compliance with such change in security classification or requirements. If, despite such reasonable efforts, the Contractor determines that the continuation of work under this contract is not practicable because of such change in security classification or requirements, he shall so notify the Contracting Officer in writing.

(f) After receiving such written notification, the Contracting Officer shall explore the circumstances surrounding the proposed change in security classification or requirements and shall endeavor to work out a mutually satisfactory method whereby the Contractor can continue performance of the work under this contract.

(g) If, upon the expiration of fifteen (15) days after receipt by the Contracting Officer of the notification of the Contractor's stated inability to proceed, (1) the application to this contract of such change in security classification or requirements has not been withdrawn, or (2) a mutually satisfactory method for continuing performance of work under this contract has not been agreed upon, the Contractor may request the Contracting Officer to terminate the contract in

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MODIFICATION PROPOSALS-PRICE BREAKDOWN (1968 APR)

The Contractor, in connection with any proposal he makes for a contract modification, shall furnish a price breakdown, itemized as required by the Contracting Officer. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, subcontract, and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added or changed. Any amount claimed for subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification therefor shall also be furnished. The proposal, together with the price breakdown and time extension justification, shall be furnished by the date specified by the Contracting Officer.

(End of clause)

7-602.37 Subcontractors.

(a) In construction contracts for work within the United States, insert the following clause:

SUBCONTRACTORS (1979 MAR)

Within seven days after the award of any subcontract either by himself or a subcontractor, the Contractor shall deliver to the Contracting Officer a completed DD Form 1566.

The form shall include the subcontractor's acknowledgement of the inclusion in his subcontract of the clauses of this contract entitled "Davis-Bacon Act," "Contract Work Hours and Safety Standards Act - Overtime Compensation," "Apprentices and Trainees," "Compliance with Copeland Regulations," "Withholding of Funds," "Subcontracts," "Contract Termination - Debarment," and "Payrolls and Basic Records." Nothing contained in this contract shall create any contractual relation between the subcontractor and the Government.

(End of clause)

(b) In construction contracts to be performed in U. S. possessions (as defined in 18-703.2), and in Puerto Rico, insert the clause in (a) above, modifying the second sentence by referring only to the clauses required by 18-703.2

(c) In construction contracts to be performed outside the United States, its possessions and Puerto Rico, insert the clause in (a) above, modified by deleting the second sentence thereof.

7-602.38 Pricing of Adjustments. Insert the clause in 7-103.26.

7-602.39 Use and Possession Prior to Completion.

USE AND POSSESSION PRIOR TO COMPLETION (1976 OCT)

The Government shall have the right to take possession of or use any completed or partially completed part of the work. Prior to such possession or use, the Contracting Officer shall furnish the Contractor an itemized list of work remaining to be performed or corrected on such portions of the project as are to be possessed or used by the Government, provided that failure to list any item of work shall not relieve the Contractor of responsibility for compliance with the terms of the contract. Such possession or use shall not be deemed an acceptance of any work under the contract. While the Government has such possession or use, the Contractor, notwithstanding the provisions of the clause of this contract entitled "Permits and Responsibilities," shall be relieved of the responsibility for the loss or damage to the work resulting from the Government's possession or use. If such prior possession or use by the Government delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment in the contract price or the time of completion will be made and the contract shall be modified in writing accordingly.

(End of clause)

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7-503.8 Approval of Contract.

APPROVAL OF CONTRACT (1953 JAN)

This contract shall be subject to the written approval of the Secretary or his duly authorized representative and shall not be binding until so approved.

(End of clause)

7-503.9 Patents. In accordance with 9-704, insert the following clause.

PATENT RIGHTS (1975 AUG)

(a) For the purpose of determining the rights of the Government and the Contractor in and to inventions, the Contractor agrees to be bound by all provisions of Executive Order 10096, dated 23 January 1950, and any orders, rules, regulations, or the like issued thereunder.

(b) The Contractor shall: (i) make written disclosure promptly to the Contracting Officer of all inventions of the Contractor which are conceived or first actually reduced to practice during the term of this contract, and sign and execute all papers necessary for conveying to the Government the right to which the Government is entitled in accordance with the determination made under the provisions of Executive Order 10096, or (ii) certify to the Contracting Officer that, to the best of the Contractor's knowledge and belief, no inventions have been conceived or first actually reduced to practice during the term of this contract.

(End of clause)

7-503.10 Pricing of Adjustments. Insert the clause in 7-103.26.

7-504 Clauses To Be Used When Applicable.

7-504.1 Military Security Requirements.

(a) Except as provided in (b) below, insert the Military Security Requirements clause in accordance with 7-104.12.

(b) In any cost reimbursement type contract, insert the Military Security Requirements clause in accordance with 7-204.12.

7-504.2 Rights in Data. In accordance with 7-104.9, insert the appropriate clause, or clauses, therein. Specific consideration should be given to the use of the clause in 7-104.9(e) when the duties of the contractor will involve the preparation of works in which the Government may desire to obtain copyright protection.

7-504.3 Interest. In accordance with E-620, insert the clause in 7-104.39.

7-504.4 Government Property.

(a) Fixed Price Contracts. Insert the appropriate clause or clauses in 7-104.24.

(b) Cost Reimbursement Contracts. Insert the clause in 7-203.21.

7-504.5 Order of Precedence. In accordance with 3-501(b)Sec.C(xxxi), insert the clause in 7-2003.41.

7-504.6 United States Products and Services (Balance of Payments Program). In accordance with Section VI, Part 8, insert the clause in 7-2003.53.

7-504.7 Identification of Expenditures in the United States. In accordance with 6-807, insert the clause in 7-104.58.

7-504.8 Use of Excess and Near Excess Currency. In accordance with 6-1110, insert the clause in 7-104.66.

7-504.9 Production Progress Report. In accordance with 25-202, insert the clause in 7-104.51.

7-504.10 Examination of Records by Comptroller General. In accordance with 7-104.15, insert the clause therein.

7-504.11 Management Systems Requirements. In accordance with 16-827.1, insert the clause in 7-104.50.

7-504.12 Payment of Interest on Contractors' Claims. In accordance with 1-333, insert the clause in 7-104.82.

7-504.12

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7-602.40 *Cleaning Up.*

CLEANING UP (1965 JAN)

The Contractor shall at all times keep the construction area, including storage areas used by him, free from accumulations of waste material or rubbish and prior to completion of the work remove any rubbish from the premises and all tools, scaffolding, equipment, and materials not the property of the Government. Upon completion of the construction the Contractor shall leave the work and premises in a clean, neat and workmanlike condition satisfactory to the Contracting Officer.

(End of clause)

7-602.41 *Additional Definitions.*

ADDITIONAL DEFINITIONS (1965 JAN)

(a) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory" or words of like import shall mean "approved by" or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(b) Where "as shown", "as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provided complete in place", that is "furnished and installed".

(End of clause)

7-602.42 *Accident Prevention.*

(a) Normally the following clause concerning safety controls, records, reports and corrective action to be taken shall be inserted.

ACCIDENT PREVENTION (1981 AUG)

(a) In order to provide safety controls for protection to the life and health of employee and other persons; for prevention of damage to property, materials, supplies, and equipment; and for avoidance of work interruptions in the performance of this contract, the Contractor shall comply with all pertinent provisions of Corps of Engineers Manual, EM 385-1-1, dated 1 April 1981, entitled "Safety and Health Requirements," and will also take or cause to be taken such additional measures as the Contracting Officer may determine to be reasonably necessary for the purpose.

(b) The Contractor will maintain an accurate record of, and will report to the Contracting Officer in the manner and on the forms prescribed by the Contracting Officer, exposure data and all accidents resulting in death, traumatic injury, occupational disease, and damage to property, materials, supplies and equipment incident to work performed under this contract.

(c) The Contracting Officer will notify the Contractor of any noncompliance with the foregoing provisions and the action to be taken. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or his representative at the site of the work, shall be deemed sufficient for the purpose. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

(d) Compliance with the provisions of this clause by subcontractors will be the responsibility of the Contractor.

(End of clause)

(b) In contracts involving work of long duration or of hazardous character, the following paragraph (e) will be added to the above clause:

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CONTRACT PRICES-BIDDING SCHEDULE (1968 APR)

Payment for the various items listed in the Bidding Schedule shall constitute full compensation for furnishing all plant, labor, equipment, appliances, and materials, and for performing all operations required to complete the work in conformity with the drawings and specifications. All costs for work not specifically mentioned in the Bidding Schedule shall be included in the contract prices for the items listed.

(End of clause)

7-603.6 *Military Security Requirements.* In accordance with 7-104.12, insert the clause therein.

7-603.7 *Examination of Records by Comptroller General.* In accordance with 7-104.15, insert the clause therein.

7-603.8 *Priorities, Allocations, and Allotments.* In accordance with 7-104.18, insert the clause therein.

7-603.9 *Subcontracts.* In accordance with 23-201.1, insert the clause, modified as appropriate, in 7-104.23.

7-603.10 *Required Insurance.* In accordance with 10-405, insert the following clause.

REQUIRED INSURANCE (1977 JAN)

(a) The Contractor shall procure and maintain during the entire period of his performance under this contract the following minimum insurance.

Type

Amount

(b) Prior to the commencement of work hereunder, the Contractor shall furnish to the Contracting Officer a certificate or written statement of the above-required insurance. The policies evidencing required insurance shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interests of the Government in such insurance shall not be effective for such period as may be prescribed by the laws of the State in which this contract is to be performed and in no event less than thirty (30) days after written notice thereof to the Contracting Officer.

(c) The Contractor agrees to insert the substance of this clause, including this paragraph (c), in all subcontracts hereunder.

(End of clause)

7-603.11 *Price Reduction for Defective Cost or Pricing Data.* In accordance with 7-104.29, insert the clause therein.

7-603.12 *Workmen's Compensation and War Hazard Insurance Overseas.* In accordance with 10-403, insert the clauses in 7-104.2(a) and/or 7-104.2(b) depending on whether all contract employees are subject to the Defense Base Act or whether the Act has been waived as to all or part of the contract employees. Also insert the clause *Reimbursement for War Hazard Losses* in 7-104.2(c) and the language at 10-502(b) and (c) according to the instructions stated in those paragraphs.

7-603.13 *Aircraft, Missile, and Space Vehicle Accident Reporting and Investigation.* In accordance with 7-104.81, insert the clause therein.

7-603.14 *Advance Payments.* In accordance with Appendix E, Part 4, insert the clause in 7-104.34.

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7-603.15 *Performance of Work by Contractor.* In accordance with 18-104, insert the following clause.

PERFORMANCE OF WORK BY CONTRACTOR (1965 JAN)

The Contractor shall perform on the site, and with his own organization, work equivalent to at least (words) percent * (figures) of the total amount of work to be performed under the contract. If, during the progress of the work hereunder, the Contractor requests a reduction in such percentage and the Contracting Officer determines that it would be to the Government's advantage, the percentage of the work required to be performed by the Contractor may be reduced; *provided*, written approval of such reduction is obtained by the Contractor from the Contracting Officer.

(End of clause)

*NOTE: The required percentage shall be the maximum consistent with customary or necessary specialty subcontracting, complexity, and magnitude of the work, and shall not be less than twenty percent (20%), except for housing contracts in which it shall not be less than fifteen percent (15%).

7-603.16 *Patent Rights.* In accordance with 9-701 and 18-908, insert the appropriate clause in 7-302.23.

7-603.17 *Interest.* In accordance with E-620, insert the clause in 7-104.39.

7-603.18 *Competition in Subcontracting.* In accordance with 7-104.40, insert the clause therein.

7-603.19 *Duty-Free Entry.* In accordance with 6-603, insert the clause in 7-104.31.

7-603.20 *Audit by Department of Defense.* In accordance with 7-104.41, insert the clause therein.

7-603.21 *Subcontractor Cost and Pricing Data.* In accordance with 7-104.42, insert the clause therein.

7-603.22 *Government-Furnished Property Clause for Fixed-Price Contracts.* Insert the appropriate clause or clauses in 7-104.24.

7-603.23 *Fixed Price Incentive Contract Clause.* The following clause shall be inserted in all negotiated contracts providing for a fixed price with provision for an adjustment reflecting the efficiency and economy exercised by the contractor during performance of the contract.

INCENTIVE PRICE REVISION (1978 SEP)

(a) *General.* The total contract price set forth in this contract as it may have been modified, consists of unit prices, lump sum prices or a combination thereof, and such total contract price is a total target price which includes a total target profit of% of total target costs. The total target price shall be revised in accordance with the provisions of this clause; *provided*, that the total amount paid under this contract shall not exceed (i) the aggregate of the prices of the lump sum items, plus (ii) the unit prices of the estimated quantity items times the actual quantity of such items, plus (iii)% of the sum of (i) and (ii) above.

(b) *Definition of Cost.* For the purposes of this clause, "cost" or "costs" means allowable cost in accordance with Section XV of the Armed Services Procurement Regulation as in effect on the date of this contract.

(c) *Submission of Data.* Within days after completion of all work and services to be performed under this contract, the Contractor shall submit (i) a detailed statement of costs incurred in the performance of this contract; (ii) such other information as the Contracting Officer may require; and (iii) a price list of all materials, supplies and property, the cost of which is included in (i) above, which are on hand upon completion of the work. Where the Contractor fails to sub-

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(2) "Safety precaution areas" means those portions of approach-departure clearance zones and transitional zones where placement of objects incident to contract performance might result in vertical projections at or above the approach-departure clearance surface or the transitional surface.

(A) The "approach-departure clearance surface" is an extension of the primary surface and the clear zone at each end of each runway, for a distance of 50,000 feet, first along an inclined plane (glide angle) and then along a horizontal plane, both flaring symmetrically about the runway centerline extended. The inclined plane (glide angle) begins in the clear zone 200 feet past the end of the runway (and primary surface) at the same elevation as the end of the runway, and continues upward at a slope of 50:1 (one foot vertically for each 50 feet horizontally) to an elevation of 500 feet above the established airfield elevation; at that point the plane becomes horizontal, continuing at that same uniform elevation to a point 50,000 feet longitudinally from the beginning of the inclined plane (glide angle) and ending there. The width of the surface at the beginning of the inclined plane (glide angle) is the same as the width of the clear zone; thence it flares uniformly, reaching the maximum width of 16,000 feet at the end.

(B) The "approach-departure clearance zone" is the ground area under the approach-departure clearance surface.

(C) The "transitional surface" is a sideways extension of all primary surfaces, clear zones, and approach-departure clearance surfaces along inclined planes. The inclined plane in each case begins at the edge of the surface. The slope of the inclined plane is 7:1 (one foot vertically for each 7 feet horizontally), and it continues to the point of intersection with the inner horizontal surface (which is the horizontal plane 150 feet above the established airfield elevation) or the outer horizontal surface (which is the horizontal plane 500 feet above the established airfield elevation), whichever is applicable.

(D) The "transitional zone" is the ground area under the transitional surface. (It adjoins the primary surface, clear zone and approach-departure clearance zone.)

(c) The Contractor shall report to the Contracting Officer before initiating any work and shall notify him of proposed changes of locations and operations.

(d) Neither equipment nor personnel shall use any runway for purposes other than aircraft operation without permission of the Contracting Officer unless the runway is closed by order of the Contracting Officer and marked as provided in (e)(2) below.

(e)(1) The Contractor shall place nothing upon the landing areas without authorization of the Contracting Officer.

(2) Unless otherwise authorized by the Contracting Officer, the Contractor shall outline those landing areas hazardous to aircraft, with red flags by day, and with electric, battery-operated, low-intensity red flasher lights by night.

(3) Before entering any landing area at an airfield where flying is controlled, additional permission must be obtained every time from the control tower operator, unless the landing area is marked as hazardous to aircraft in accordance with (2) above.

(4) All vehicles which the Contractor operates in landing areas shall be identified by means of a flag on a staff attached to and flying above the vehicle. The flag shall be three feet square and shall consist of a checkered pattern of international orange and white squares of one foot on each side (except that the flag may vary up to 10 percent from each of these dimensions).

(5) Unless otherwise authorized by the Contracting Officer, all other equipment and materials in the landing areas shall be marked with red flags by day, and with electric, battery-operated, low-intensity red flasher lights by night.

(6) Work shall be carried on so as to leave that portion of the landing area which is available to aircraft free from hazards, holes, piles of material, and projecting shoulders that might damage an airplane tire.

(f)(1) The Contractor shall place nothing upon the safety precaution areas without authorization of the Contracting Officer.

(2) Unless otherwise authorized by the Contracting Officer, all equipment and materials in safety precaution areas shall be marked with red flags by day, and with electric, battery-operated, low-intensity red flasher lights by night.

(3) All objects, placed in safety precaution areas, which project above the approach-departure clearance surface or above the transitional surface must be provided at night with a red light or red lantern

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(g) The Contractor shall keep all paved surfaces, such as runways, taxiways, and hardstands, clean at all times; and, specifically, free from small stones which might damage aircraft propellers or jet aircraft.

(h) While work is actually being performed on the airfield by the Contractor, the operation of mobile equipment shall be governed by the safety provisions above. At all other times all mobile equipment shall be removed to locations approved by the Contracting Officer at a distance of at least 750 feet from the runway centerline plus any additional distance necessary to insure compliance with the other provisions of this clause.

(i) Only those trenches may be opened for which material is on hand and ready for placing therein. As soon as practicable after material has been placed and work approved, trenches shall be backfilled and compacted as required by the contract. Meanwhile all hazardous conditions shall be marked and lighted in accordance with the other provisions of this clause.

(End of clause)

* At some airfields the width of the primary surfaces is 1500 feet (750 feet on each side of the runway centerline). In such instances substitute the proper width in the clause.

7-606.19 *Limitation on Sales Commissions and Fees for Foreign Governments.* In accordance with 6-1305.6, insert the clause in 7-104.107.

7-606.20 *Reserved.*

7-606.21 *Payment of Interest on Contractor's Claims.* In accordance with 1-333, insert the clause in 7-104.82.

7-606.22 *Cost Accounting Standards.* In accordance with 3-1204, insert the clause in 7-104.83.

7-606.23 *Capture and Detention.* In accordance with 10-406, insert the clause in 7-104.94.

7-606.24 *Value Engineering.* A VE Incentive or Program Requirement clause may be included in Cost-Reimbursement Type construction contracts at the discretion of the Contracting Officer. Use 7-602.50 or 7-104.44 (as modified by 7-204.32(b) or (c)) to suit the procurement.

7-606.25 *Potent Rights.* In accordance with 9-701 and 18-908, insert the appropriate clause in 7-302.23.

7-606.26 *Filing of Patent Applications.* In accordance with 9-106, insert the clause in 7-104.6.

7-606.27 *Reporting of Royalties.* In accordance with 9-110(d), insert the clause in 7-104.8(a).

7-606.28 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-606.29 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-606.30 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the clause in 7-104.97.

7-606.31 *Hazardous Material Identification and Material Safety Data.* In accordance with 1-323.2(b), insert the clause in 7-104.98.

7-606.32 *Geographic Distribution of Defense Subcontract Dollars.* In accordance with 1-340, insert the clause in 7-104.78.

7-606.33 *Reserved.*

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in the contract, or he may adjust such estimated construction contract price. When bids or proposals are not solicited or where they are unreasonably delayed, the Government shall prepare an estimate of constructing the design submitted and such estimate will be used in lieu of bids or proposals to determine compliance with the funding limitation.

(End of clause)

(b) Whenever the clause set forth in (a) above is included in a contract, the following statement shall be inserted in the description of the work to be performed by the Architect-Engineer.

The estimated construction contract price for the project described herein is \$.....

The figure to be inserted in this statement is to be established at the beginning of the contract negotiations by agreement between the Architect-Engineer and the Government. Such estimated construction contract price shall take into account any statutory or other limitations and exclude any allowances for Government supervision and overhead and any amounts set aside by the Government for contingencies. In negotiating the figure to be inserted, the Contracting Officer should make available to the Architect-Engineer the information upon which the Government has based its initial estimate and any subsequently acquired information which may affect the construction cost.

7-608.4 *Limitation on Sales Commissions and Fees for Foreign Governments.* In accordance with 6-1305.6, insert the clause in 7-104.107.

7-608.5 *Option for Supervision and Inspection Services.* The following clause may be included in any fixed-price architect-engineer contract if supervision and inspection services by the architect-engineer during construction are contemplated. The details of such services must be set out in Appendix A of the contract.

OPTION FOR SUPERVISION AND INSPECTION SERVICES (1972 APR)

At any time prior to six (6) months after satisfactory completion and acceptance of the work to be furnished hereunder, the Government at its option, by a written order, the Architect-Engineer to perform any part or all of the supervision and inspection services provided under Appendix A. Upon receipt of such direction, the Architect-Engineer shall proceed with such work and services.

(End of clause)

7-608.6 *Requirements for Registration of Designers.* The following clause shall be inserted in fixed-price architect-engineer contracts, except that it may be omitted from any contract (1) when the design is to be performed outside the United States, its possessions, or Puerto Rico, or (2) when the design is to be performed in a State or possession which does not have registration requirements for the particular field involved:

REQUIREMENTS FOR REGISTRATION OF DESIGNERS (1972 APR)

The design of architectural, structural, mechanical, electrical, civil or other engineering features of the work shall be accomplished or reviewed and approved by architects or engineers registered to practice in the particular professional field involved in a State or possession of the United States, in Puerto Rico, or in the District of Columbia.

(End of clause)

7-608.7 *Accident Prevention.* Insert the clause in 7-602.42, except in contracts where no field work is involved, substituting "Architect-Engineer" for "Contractor."

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- (iii) "Apprentices and Trainees," 7-602.23(a)(iii);
 - (iv) "Payrolls and Basic Records," 7-602.23(a)(iv);
 - (v) "Compliance With Copeland Regulations," 7-602.23(a)(v);
 - (vi) "Withholding of Funds," 7-602.23(a)(vi);
 - (vii) "Subcontracts," 7-602.23(a)(vii);
 - (viii) "Contract Termination - Debarment," 7-602.23(a)(viii); and
 - (ix) "Disputes Concerning Labor Standards," 7-602.23(a)(ix).
- (b) Upon determination by the Contracting Officer that the Davis-Bacon Act is applicable to any item of work to be performed hereunder, a determination of the prevailing wage rates and the clauses referenced in paragraph (a) above shall be incorporated into the contract in their entirety by modification.
- (c) No construction, alteration, or repair (including painting and decorating) of public buildings or public works shall be performed under this contract without incorporation of the wage determination and clauses required in paragraph (b) above unless the Contracting Officer authorizes the start of work because of unusual or emergency situations.

(End of clause)

7-705.6 Management Systems Requirements. In accordance with 16-827.1, insert the clause in 7-104.50.

7-705.7 Improvements to Buildings or Land Owned by the Government. When necessary to assure that Government buildings or land will not be modified in a manner detrimental to the interests of the Government, the following clause shall be inserted.

IMPROVEMENTS TO BUILDING OR LAND OWNED BY THE GOVERNMENT (1964 SEP)

- (a) The Contractor shall not construct or make, at its expense, any fixed improvement to, or structural alteration in the nature of, buildings or land owned or leased by the Government, without prior written approval of the Contracting Officer.
- (b) For the purposes of paragraph (a), the terms "fixed improvement" and "structural alteration" mean any improvement to or alteration in the nature of the buildings or land which, after completion, cannot be removed without substantial loss of value or damage to the premises. Such terms do not include foundations for production equipment.

(End of clause)

7-705.8 Patent Rights. In accordance with 9-701., insert the appropriate clause as set forth in 7-302.23.

7-705.9 Required Source for Jewel Bearings and Related Items. In accordance with 1-2207.2, insert the clause in 7-104.37.

7-705.10 Changes to Make-or-Buy Program. In accordance with 3-902.4, insert the clause in 7-204.20(a).

7-705.11 Interest. In accordance with E-620, insert the clause in 7-104.39.

7-705.12 Limitation on Sales Commissions and Fees for Foreign Governments. In accordance with 6-1305.6, insert the clause in 7-104.107.

7-705.12

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7-608.8 Military Security Requirements. In accordance with 7-104.12, insert the clause therein, substituting "Architect-Engineer" for "Contractor."

7-608.9 Price Reduction for Defective Cost or Pricing Data. In accordance with 7-104.29(a), insert the clause therein, substituting "Architect-Engineer" for "Contractor."

7-608.10 Subcontractor Cost or Pricing Data. In accordance with 7-104.42(a), insert the clause therein, substituting "Architect-Engineer" for "Contractor."

7-608.11 Identification of Expenditures in the United States. In accordance with Section VI, Part 8, insert the clause in 7-104.58, substituting "Architect-Engineer" for "Contractor."

7-608.12 Authorization and Consent. In accordance with 18-902.1 and 18-902.2, insert the appropriate clause in 7-103.22 or 7-302.21, substituting "Architect-Engineer" for "Contractor."

7-608.13 Notice and Approval of Restricted Designs. In accordance with 18-905, insert the following clause.

NOTICE AND APPROVAL OF RESTRICTED DESIGNS (1972 APR)

In the performance of this contract, the Architect-Engineer shall, to the extent practicable, make maximum use of structures, machines, products, materials, construction methods, and equipment which are readily available through Government or competitive commercial channels, or through standard or proven production techniques, methods, and processes. Unless approved by the Contracting Officer the Architect-Engineer shall not, in the performance of the work called for by this contract, produce a design or specification such as to require in this construction work the use of structures, products, materials, construction equipment, or processes which are known by the Architect-Engineer to be available only from a sole source. As to any such design or specification the Architect-Engineer shall report to the Contracting Officer giving the reason or reasons why it is considered necessary to so restrict the design or specification

(End of clause)

7-608.14 Patent Rights. In accordance with 9-701 and 18-908(a), insert the appropriate clause in 7-302.23, substituting "Architect-Engineer" for "Contractor."

7-608.15 Filing of Patent Applications. In accordance with 9-106, insert the clause in 7-104.6 in every classified contract which covers or is likely to cover classified subject matter, substituting "Architect-Engineer" for "Contractor."

7-608.16 Alterations. In accordance with 7-604.1, insert the clause therein.

7-608.17 Rights in Data. In accordance with 18-910.2 and 18-910.3, insert the appropriate clause, or clauses, in 7-104.9, substituting "Architect-Engineer" for "Contractor."

7-608.18 Cost Accounting Standards. In accordance with 3-1204, insert the clauses in 7-104.83, substituting "Architect-Engineer" for "Contractor."

7-608.19 Privacy Act. In accordance with 1-327.1, insert the clause in 7-104.96.

7-608.20 Preference for Domestic Specialty Metals. In accordance with 7-104.93, insert the applicable clause therein.

7-608.21 Utilization of Small Business and Small Disadvantaged Business Concerns. In accordance with 1-707.3, insert one or more of the clauses in 7-104.14.

7-608.22 Reserved.

7-608.23 Exclusionary Policies and Practices of Foreign Governments. In accordance with 6-1312, insert the clause in 7-104.97.

7-608.23

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7-705.13 *Advance Payments*. In accordance with Appendix E, Part 4, insert the clause in 7-104.34 but substitute paragraphs (3) and (5) from the clause in 7-204.25 for paragraph (3) and (5) of the clause in 7-104.34.

7-705.14 *General Services Administration Supply Sources*. In accordance with 7-204.28, insert the clause therein, deleting the last sentence.

7-705.15 *Order of Precedence*. In accordance with 3-501(b)Sec.C(xxxi), insert the clause in 7-2003.41.

7-705.16 *Duty-Free Entry*. In accordance with 6-603.2 and 6-603.3, insert either or both of the clauses in 7-104.31.

7-705.17 *United States Products and Services (Balance of Payments Program)*. In accordance with 6-806.4, insert the clause in 7-2103.53.

7-705.18 *Identification of Expenditures in the United States*. In accordance with 6-807, insert the clause in 7-104.58.

7-705.19 *Right of First Refusal for Employment Openings*. In accordance with 4-1202, insert the clause in 7-104.104.

7-705.20 *Insurance*. In accordance with 10-405 and 10-501, insert the clause in 7-104.65.

7-705.21 *Use of Excess and Near-Excess Currency*. In accordance with 6-1110, insert the clause in 7-104.66.

7-705.22 *Facilities Equipment Modernization*. Insert the following clause in any bilateral modification of an existing facilities contract, and in any new facilities contract, under which the Government provides modernized or replacement facilities:

FACILITIES EQUIPMENT MODERNIZATION (1976 JUL)

(a) In consideration of the Government providing, as set forth in this contract, for modernization or replacement of Government-owned equipment being used or to be used by the Contractor in the performance of Government firm-fixed-price contracts or subcontracts, or fixed-price contracts or subcontracts with economic price adjustment provisions, the Contractor agrees to return to the Government the net cost savings actually realized from the use of the modernized or replacement equipment on all such contracts or subcontracts entered into prior to the expiration of the three-year period following the date such equipment is placed in production, except (i) for mutually advertised contracts entered into subsequent to the date such equipment is placed in production, and (ii) contracts or subcontracts which specifically provide that they have been priced on the basis of anticipated use of such equipment.

(b)(1) The Contractor shall maintain adequate records for the implementation of this clause. The Contractor shall make such records available at its office for inspection, audit or reproduction by any authorized representative of the Contracting Officer. Within fourteen (14) months after the modernized or replacement equipment has been placed in production, the Contractor shall file with the Administrative Contracting Officer cognizant of the Government production and research property four (4) completed copies of DD Form 1651 (Industrial Equipment Modernization Program—Post Analysis Report).

(2) When the Contractor authorizes a subcontractor to use the modernized or replacement equipment, he shall require the subcontractor to maintain records, to make them and additional information available to the Contracting Officer, and to file four (4) copies of DD Form 1651, in the manner prescribed in (1) above.

(c) Records shall generally be acceptable if they are maintained for the equipment under established accounting practices and permit a fair estimation of the net cost savings realized. Net cost savings realized shall be determined by a comparison of the Contractor's cost experience in the operation of the equipment before and after modernization.

(d) Amounts due the Government under this clause shall be returned by the Contractor, as directed by the Administrative Contracting Officer by:

7-705.22

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(c) If, subsequent to the date of this contract, the security classification or security requirements under this contract are changed by the Government as provided in this clause and such change requires an increase or decrease in any hourly rate or in the ceiling price provided for in this contract, or in the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, or otherwise affects any other provision of this contract, an equitable adjustment shall be made in (1) ceiling price, (2) hourly rates, (3) delivery schedule, and (4) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any equitable adjustment shall be accomplished in the same manner as if such changes were directed under the "Changes" clause of this contract.

7-902.4 *Priorities, Allocations and Allotments*. In accordance with 1-307.2, insert the clause in 7-104.18.

7-902.5 *Buy American Act*. In accordance with 7-104.3, insert the clause therein.

7-902.6 *Notice to the Government of Labor Disputes*. In accordance with 7-104.4, insert the clause therein.

7-902.7 *Filing of Patent Applications*. In accordance with 9-106, insert the clause in 7-104.6.

7-902.8 *Patent Rights*. In accordance with 9-701, insert the appropriate clause in 7-302.23.

7-902.9 *Rights in Data*. In accordance with 7-104.9, insert the appropriate clause, or clauses, therein.

7-902.10 *Alterations in Contract*. When required, insert the clause in 7-105.1(a).

7-902.11 *Limitation on Withholding of Payments*. In accordance with 7-104.21, insert the clause therein.

7-902.12 *Communist Areas*. In accordance with 6-403, insert the clause in 7-103.15.

7-902.13 *Flight Risks*. In accordance with 10-504, if the contract is for development, production, modification, maintenance, or overhaul of aircraft, or if it otherwise involves furnishing of aircraft to the contractor by the Government, include the clause from 7-204.21, but substitute the paragraph (c) below for paragraph (c) of the clause in 7-204.21.

(c) If any aircraft is damaged, lost, or destroyed, during flight, and if the amount of such damage, loss, or destruction exceeds one hundred thousand dollars (\$100,000) or twenty percent (20%) of the ceiling price of this contract, whichever is less, and if the Contractor is not liable for the damage, loss, or destruction pursuant to the "Government Property" clause of this contract together with paragraph (a) above, then an equitable adjustment for any resulting repair, restoration, or replacement that is required under this contract shall be made in the ceiling price, hourly rate, delivery or performance date, or all of them and the contract shall be modified in writing accordingly; provided, in determining the amount of adjustment in the hourly rate that is equitable, any faults of the Contractor, his employees, or any subcontractor which materially contributed to the damage, loss, or destruction shall be taken into consideration. Failure to agree on any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

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7-902.14 *Workmen's Compensation and War Hazard Insurance Overseas*. In accordance with 10-403, insert the clauses in 7-104.2(a) and/or 7-104.2(b), depending on whether all contract employees are subject to the Defense Base Act or whether the Act has been waived as to all or part of the contract employees. Also insert the clause Reimbursement for War Hazard Losses in 7-104.2(c) and the language at 10-502(b) and (c) according to the instructions stated in those paragraphs.

7-902.15 *Royalty Information*. In accordance with 9-110(d), insert the clause in 7-104.8(a).

7-902.16 *Right of First Refusal for Employment Openings*. In accordance with 4-1202, insert the clause in 7-104.104.

7-902.17 *Interest*. In accordance with E-620 and E-621, insert the clause in 7-104.39.

7-902.18 *Price Reduction for Defective Cost or Pricing Data*. Insert the clause in 7-104.29(a).

7-902.19 *Limitation of Liability*. In accordance with 1-330(b), insert the appropriate clause in 7-104.45.

7-902.20 *Subcontractor Cost and Pricing Data*. Insert the clause in 7-104.42(a).

7-902.21 *Order of Precedence*. In accordance with 3-501(b)Sec.C(xxxi), insert the clause in 7-2003.41.

7-902.22 *Duty-Free Entry*. In accordance with 6-603.2, insert the clause in 7-104.31.

7-902.23 *United States Products and Services (Balance of Payments Program)*. In accordance with Section VI, Part 8, insert the clause in 7-2003.53.

7-902.24 *Identification of Expenditures in the United States*. In accordance with Section VI, Part 8, insert the clause in 7-104.58.

7-902.25 *Material Inspection and Receiving Report*. Insert the clause in 7-104.62 except in negotiated subsistence procurements and contracts for tanker/barge shipments of bulk petroleum products.

7-902.26 *Insurance*. In accordance with 10-405, insert the clause in 7-104.65.

7-902.27 *Use of Excess and Near-Excess Currency*. In accordance with 6-1110, insert the clause in 7-104.66.

7-902.28 *Bills of Lading Covering Shipments To or From Contractor's Plant*. In accordance with the requirements of 19-217.1(b), insert the clause in 7-203.14.

7-902.29 *Safety Precautions for Ammunition and Explosives*. In accordance with 7-104.79, insert the clause therein.

7-902.30 *Notice of Radioactive Materials*. In accordance with 7-104.80, insert the clause therein.

7-902.31 *Procurement of Miniature and Instrument Ball Bearings*. In accordance with 1-2207.3, insert the clause in 7-104.38.

7-902.32 *Management Systems Requirements*. In accordance with 16-827.1, insert the clause in 7-104.50.

7-902.33 *Aircraft, Missile, and Space Vehicle Accident Reporting and Investigation*. In accordance with 7-104.81, insert the clause therein.

7-902.34 *Payment of Interest on Contractors' Claims*. In accordance with 1-333, insert the clause in 7-104.82.

7-902.34

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7-1702 Clauses to be Used When Applicable. With the exception of the clauses prescribed by 7-1702.1 through 7-1702.5, 7-1702.14(b), and 7-1702.15(b), the clauses prescribed by this paragraph may be varied to meet specific requirements of an appropriate governmental regulatory body or when the basic intent is not changed.

7-1702.1 *Utilization of Small Business Concerns*. In accordance with the requirements of 1-707.3(a), insert the clause therein.

7-1702.2 *Buy American Act*. In accordance with the requirements of 7-104.3, insert the clause therein.

7-1702.3 *Approval of Contract*. When the contract requires manual approval prior to becoming effective, insert the clause in 7-105.2.

7-1702.4 *Patent Rights (License)*. In accordance with 9-701, insert the appropriate clause as set forth in 7-302.23.

7-1702.5 *Authorization and Consent*.

(a) Insert the following clause in contracts with common carriers.

AUTHORIZATION AND CONSENT (COMMON CARRIERS) (1971 APR)

The Government hereby gives authorization and consent (without prejudice to its rights of indemnification, if these rights are provided for in this contract) for all use and manufacture, in the performance of any order placed under this contract, for communication services and facilities for which rates, charges, and tariffs are not established by a governmental regulatory body, or any part thereof or any amendments thereto or any subcontract thereunder (including any lower-tier subcontract), of any United States patented invention (i) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract; or (ii) utilized in the machinery, tools, or methods the use of which necessarily results from compliance by the Contractor or the using subcontractor with (A) specifications or written provisions now or hereafter forming a part of this contract, or (B) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clauses, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent herein above granted.

(End of clause)

(b) Insert the clause in 7-103.22 in contracts with noncommon carriers.

7-1702.6 *Continuation of Orders*. When a communication services contract supersedes another and it is desired to transfer outstanding orders to the new contract, insert the following clause:

CONTINUATION OF ORDERS (1971 APR)

All orders heretofore issued by under Contract Number dated are transferred to this contract and shall continue in full force and effect as though placed under this contract. Orders currently in effect which were heretofore issued by the above Department under other contracts of that Department with the Contractor may likewise be transferred to this contract.

(End of clause)

7-1702.7 *Facilities and Services To Be Furnished*. Insert the following clause in contracts with common carriers:

7-1702.7

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FACILITIES AND SERVICES TO BE FURNISHED—COMMON CARRIERS (1971 APR)

- (a) The Contractor shall furnish any classes of services or facilities that he offers or furnishes under published tariffs.
- (b) When it is mutually agreed that the Contractor shall furnish non-tariffed services, such services may be ordered in the manner provided in the clause entitled "Ordering of Facilities and Services." These may include the engineering, installation, alteration or maintenance of facilities owned either by the Contractor or by the Government, and may be located on or off Government premises or at any of its establishments.
- (c) The Contractor agrees to interconnect his facilities with any Government-owned or furnished communications equipment, facilities or transmission media, in accordance with established technical criteria for assuring continuity of service and/or traffic without damage to or degradation of commercial facilities, upon request of the Contracting Officer.

(End of clause)

7-1702.8 Ordering of Facilities and Services. Insert the following clause in contracts with common carriers:

ORDERING OF FACILITIES AND SERVICES—COMMON CARRIERS (1971 APR)

All services and facilities furnished, as provided in the clause entitled "Facilities and Services To Be Furnished—Common Carriers" shall be ordered by the Contracting Officer on numbered CSAs referring to this contract and specifying the services and facilities desired, the premises involved, the address where bills for service shall be sent, the Disbursing Officer, and any other pertinent details. Acceptance of orders by the Contractor shall be acknowledged by (i) commencing performance or (ii) written acceptance by a duly authorized representative. The Contractor shall sign and promptly return the order to the Government when required by the Contracting Officer. Orders pursuant to this clause which are unacceptable to the Contractor shall be returned to the Contracting Officer within days of receipt stating the reasons therefor.

(End of clause)

7-1702.9 Rates, Charges, and Services—Common Carriers. Insert the following clause in contracts with common carriers:

RATES, CHARGES, AND SERVICES—COMMON CARRIERS (1971 APR)

- (a) The services and facilities furnished hereunder shall be in accordance with all applicable tariffs, rates, charges, rules, regulations or requirements (i) lawfully established by an appropriate governmental regulatory body; and (ii) applicable to service and facilities furnished or offered by the Contractor to the general public or his subscribers; or at rates, terms and conditions of service and facilities furnished or offered by the Contractor to the general public or his subscribers; or at rates, terms and conditions of service as may be agreed upon, subject, when appropriate, to jurisdiction of an appropriate governmental regulatory body. For non-tariffed services which are furnished, the Government shall be charged at the lowest rate and under the most favorable terms and conditions for similar service and facilities offered to any other customer.
- (b) Recurring charges for services and facilities furnished under this contract shall, in each case, commence with satisfactory establishment of service or provision of facilities or equipments and are payable monthly in arrears.
- (c) Subject to the "Cancellation or Termination of Orders—Common Carriers" clause, the Government may discontinue the use of any service or facilities furnished hereunder at any time. Upon discontinuance, the Government shall pay to the Contractor all charges for services and facilities adjusted to the effective date of discontinuance.
- (d) Expediting charges are expenditures necessary to secure services earlier than those services normally would be provided, such as costs of overtime pay, or special shipment. Expediting charges shall be paid only when (i) payment thereof is provided for in the tariff established by an appropriate regulatory authority or (ii) such charges are specially authorized in an expediting CSA. When authorized, expediting charges shall be the additional costs incurred by the Contractor and the subcontractor.

7-1702.9

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SECTION IX

PATENTS, DATA, AND COPYRIGHTS

9-000 Scope of Section. This Section sets forth policies, instructions, and contract clauses pertaining to patents, data, and copyrights in connection with the acquisition of supplies and services.

9-000

ARMED SERVICES PROCUREMENT REGULATION

ARMED SERVICES PROCUREMENT REGULATION

PATENTS, DATA, AND COPYRIGHTS

Part 1—Patents

9-100 Scope of Part. This Part prescribes contract clauses and instructions which define and implement the policy of the Department of Defense with respect to—

- (i) patent infringement liability resulting from work performed by or for the Government;
- (ii) royalties payable in connection with the performance of Government contracts;
- (iii) security requirements covering patent applications containing classified subject matter filed by contractors.

9-101 Reserved.**9-102 Authorization and Consent.**

(a) Under 28 U.S.C. 1498, any suit for infringement of a United States patent based on the manufacture or use by or for the United States of an invention described in and covered by a patent of the United States by a contractor or by a subcontractor (including lower-tier subcontractors) can be maintained only against the Government in the Court of Claims, and not against the contractor or subcontractor, in those cases where the Government has authorized or consented to the manufacture or use of the patented invention. Accordingly, to insure that work by a contractor or subcontractor under a Government contract may not be enjoined by reason of patent infringement, authorization and consent shall be given as herein provided. The liability of the Government for damages in any such suit against it may, however, ultimately be borne by the contractor or subcontractor in accordance with the terms of any patent indemnity clause also included in the contract, and an authorization and consent clause does not detract from any patent indemnification commitment by the contractor or subcontractor. Therefore, both a patent indemnity clause and an authorization and consent clause may be included in the same contract.

(b) Any provision whereby the Government expressly agrees to indemnify the contractor against liability for patent infringement shall not be included in a contract.

(c) An authorization and consent clause shall not be used in contracts where both complete performance and delivery are to be outside the United States, its possessions, or Puerto Rico.

9-102.1 Authorization and Consent in Contracts for Supplies or Services. The contract clause in 7-103.22 shall be included in all contracts for supplies or services (including construction or architect-engineering work, see 18-902.1) except:

- (i) when prohibited by 9-102(c); or
- (ii) in contracts for experimental, developmental, or research work in which the clause in 7-302.21 is required.

9-102.2 Authorization and Consent in Contracts for Research or Development. Greater latitude in the use of patented inventions may be necessary in a contract for experimental, developmental, or research work than in a contract for supplies.

9-102.2

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9-105 Reserved.

9-106 Classified Contracts. Unauthorized disclosure of classified subject matter, whether in patent applications or resulting from the issuance of a patent, may be a violation of 18 U.S.C. 792 *et seq.* (Espionage and Censorship) and related statutes and may be contrary to the interests of national security. Accordingly, except as otherwise provided in 9-106.2, the clause in 7-104.6 shall be included in every classified contract (see 1-201.34 and 1-320).

9-106.1 Patent Applications.

(a) Upon receipt from the contractor of a patent application, not yet filed, which has been submitted by the contractor in compliance with paragraphs (a) or (b) of the clause in 7-104.6, the contracting officer shall ascertain the proper security classification of the patent application. Upon a determination that the application contains classified material, the contracting officer shall inform the contractor of any instructions deemed necessary or advisable relating to transmittal of the application to the United States Patent Office in accordance with procedures in the Department of Defense Industrial Security Manual for Safeguarding Classified Security Information. If the material is classified "Secret" or higher, the contracting officer shall make every effort to notify the contractor of the determination within 30 days pursuant to paragraph (a) of the clause.

(b) In the case of all applications filed under the provisions of this paragraph, the contracting officer, upon receiving the application serial number, the filing date, and the information furnished by the contractor under paragraph (d) of the clause in 7-104.6, shall promptly submit that information to personnel having cognizance of patent matters in order that necessary steps may be taken to ensure the security of the application.

(c) A request for the approval referred to in paragraph (c) of the clause in 7-104.6 must be considered and acted upon promptly in order to avoid the loss of valuable patent rights of the Government or the contractor.

9-106.2 Classified Contracts Relating to Atomic Energy. When the contract contains a patents rights clause which includes the paragraph in 7-302.23(e), the instructions contained in such paragraph shall be followed in processing information regarding any Subject Invention (Classified or Unclassified), relating to the production or utilization of special nuclear material or atomic energy.

9-107 Reserved.**9-108 Reserved.****9-109 Reserved.****9-110 Reporting of Royalties — Anticipated or Paid.**

(a)(1) The term "royalties," as used in this Part, refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use of or for rights in patents or patent applications.

(2) To determine whether royalties anticipated or actually paid under Government contracts are excessive, improper, or inconsistent with rights which the Government may possess in particular inventions, patents, or patent applications, the Departments shall require royalty information and reports as prescribed below. See 9-112 for action to be taken to reduce or eliminate excessive or improper royalties.

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(3) Royalty information should not be required in formally advertised contracts. When it is expected that work may be performed in the United States, its possessions, or Puerto Rico, any solicitation which may result in a negotiated contract for which royalty information is desired, or for which cost or pricing data are obtained under 3-807.3, shall contain a special provision substantially as in 7-2003.42.

(b) If the work is to be performed in the United States, its possessions or Puerto Rico, then upon receipt of an offer, proposal, or quotation which includes a charge for royalties, the contracting officer shall, prior to award of the contract, forward the information called for by (a) above to the office having cognizance of patent matters for the procuring activity concerned. The cognizant office shall promptly advise the contracting officer of appropriate action. The contracting officer shall then take action with respect to such royalties, with due regard to all pertinent factors relating to the proposed procurement.

(c) When subcontract work is to be performed in the United States, its possessions, or Puerto Rico, the contracting officer, when considering approval of a subcontract, shall require the same information and take the same action with respect to such subcontracts in relation to royalties as required for prime contracts under (b) above. However, approval need not be withheld pending receipt of advice in regard to such royalties from the office having cognizance of patent matters.

(d) (1) In negotiated contracts to be performed outside the United States, its possessions and Puerto Rico, regardless of the place of delivery, the clause in 7-104.8(a) shall be included. See 16-806 for an approved form for optional use by contractors in submitting the required report.

(2) The contracting officer shall forward a copy of each positive royalty report received in accordance with the clause in (1) above to the office having cognizance of patent matters for the procuring activity concerned.

9-111 Refund of Royalties. When a fixed-price-type contract is negotiated under circumstances which make it questionable whether or not substantial amounts of royalties will have to be paid by the contractor or his subcontractors, such royalties may be included in the target or contract price, with provision made in the contract that the Government will be reimbursed the amount of such royalties if they are not paid. Such circumstances might include, for example, either a pending anti-trust action by the Government or pending or prospective litigation challenging the validity of a patent or patents or the enforceability of an agreement upon which the contractor or subcontractor bases the asserted obligation to pay the royalties to be included in the target or contract price. In the event the contracting officer determines that a refund of royalties clause should be included, the clause in 7-104.8(b) shall be used in firm fixed-price contracts. It shall be appropriately modified for use in incentive contracts.

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9-112 Adjustment of Royalties.

(a) If at any time the contracting officer has reason to believe that any royalties paid, or to be paid, under an existing or prospective contract or subcontract are inconsistent with Government rights, excessive, or otherwise improper, he shall promptly report the facts to the office having cognizance of patent matters for the procuring activity concerned. The cognizant office shall review the royalties thus reported and such royalties as are reported under 9-110 and 9-111. In coordination with the contracting officer, the cognizant office shall:

(i) take prompt action to protect the Government against payment of royalties on supplies or services (A) with respect to which the Government has a royalty-free license, or (B) at a rate in excess of the rate at which the Government is licensed, or (C) when the royalties in whole or in part otherwise constitute an improper charge; and

(ii) in appropriate cases obtain a refund pursuant to a "Refund of Royalties" clause or enter into negotiation for a reduction of royalties.

(b) For guidance in evaluating information furnished pursuant to 9-110 and (a) above, see 15-205.36 and 15-309.34. Also see 15-107 regarding advance understandings on particular cost items, including royalties.

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- (ii) a principal purpose of the contract is for exploration into fields which directly concern the public health, public safety, or public welfare; or
- (iii) the contract is in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the retention of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position; or
- (iv) the services of the contractor are:
- (A) for the operation of a Government-owned research or production facility; or
 - (B) for coordinating and directing the work of others.

In exceptional circumstances the contractor may retain greater rights than a nonexclusive license at the time of contracting when the Secretary or his designee determines that such action will best serve the public interest. Greater rights may also be retained by the contractor after the invention has been identified when it is determined that the retention of such greater rights is consistent with the intent of this paragraph (a) and is either a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application or that the Government's contribution to the invention is small compared to that of the contractor. When an identified invention made in the course of or under the contract is not directly related to a principal purpose of the contract, greater rights may also be retained by the contractor under the criteria of (c) below.

(b) In other situations, where the purpose of the contract is to build upon existing knowledge or technology to develop information, products, processes, or methods for use by the Government, and the work called for by the contract is in a field of technology in which the contractor has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position) directly related to an area in which the contractor has an established nongovernmental commercial position, the contractor shall normally retain the principal or exclusive rights throughout the world in and to any resulting inventions.

(c) When the commercial interests of the contractor are not sufficiently established to be covered by the criteria specified in (b) above, the allocation of rights shall be made by the contracting officer after the invention has been identified, in a manner deemed most likely to serve the public interest as expressed in this policy, taking particularly into account the intentions of the contractor to bring the invention to a point of commercial application and the guidelines of (a) above. However, the Secretary or his designee may prescribe by regulation, special situations where the public interest in the availability of the inventions would best be served by permitting the contractor to retain at the time of contracting greater rights than a nonexclusive license.

(d) In the situations specified in (b) and (c) above, when two or more potential contractors are judged to have presented proposals of equivalent merit, willingness to grant the Government principal or exclusive rights in resulting inventions, will be an additional factor in the evaluation of the proposals.

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Part 7—Patent Rights Under Government Contracts

9-700 Scope of Part. This Part prescribes contract clauses and instructions which define and implement the policy of the Department of Defense with respect to inventions made in the course of experimental, developmental, or research work performed under Government contracts.

9-701 Patent Rights Under Contracts Involving Research and Development with Other Than Small Business Firms and Nonprofit Organizations. This paragraph sets forth policies and procedures, and prescribes contract clauses with respect to inventions made in the course of or under a contract or subcontract entered into by or for the benefit of the Government with other than small business firms and nonprofit organizations where a purpose of the contract or subcontract is the conduct of experimental, developmental, or research work. See 9-702 for policies, procedures and a prescribed contract clause relating to contracts and subcontracts awarded to small business firms and nonprofit organizations.

9-701.1 General.

(a) *Introduction.* On August 23, 1971, the President issued a Statement of Government Patent Policy (36 Fed. Reg. 16887, August 26, 1971) applicable to all executive departments and agencies, revising a prior Statement of Policy (28 Fed. Reg. 10943, October 12, 1963). Essentially, the goals of this Statement are to provide criteria for determining the allocation of rights in inventions resulting from federally-sponsored research and development contracts, to promote their expeditious development so that the public can benefit from early civilian use of the inventions and to assure their continued availability. In applying this regulation, both the need for incentives to draw forth private initiatives and the need to promote healthy competition in industry must be weighed.

(b) *Applicable Statutes.* Except to the extent that the Department of Defense may be governed by specific statutes or by any treaty or agreement between the United States and any foreign country, inconsistent with this paragraph 9-701, the provisions of this paragraph 9-701, including the use of the prescribed clauses shall be followed.

(c) *Co-sponsored, Cost Sharing or Joint Venture Research.* The provisions of this paragraph 9-701 are not mandatorily applicable to co-sponsored, cost sharing or joint venture research when it is determined that in the course of the work under the contract, the contractor will be required to make a substantial contribution of funds, facilities, or equipment to the principal purpose of the contract.

9-701.2 Policy.

(a) The Government shall normally acquire or reserve the right to acquire the principal or exclusive rights throughout the world in and to any inventions made in the course of or under a contract when:

- (i) a principal purpose of the contract is to create, develop, or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations; or

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(j) Nothing herein shall be construed to confer immunity upon any person from the antitrust laws or from a charge of patent misuse, and no person shall be immune from the operation of State or Federal law by reason of the retention and use of rights set forth herein.

9-701.3 Procedures.

(a) Selection of Patent Rights Clause.

(1) When a contract which is to be performed in the United States, its possessions, Puerto Rico, or the District of Columbia has as a purpose the conduct of experimental, developmental, or research work, the contracting officer, after consultation with cognizant legal, patent and technical advisors, shall apply the policy in 9-701.2 to the contracting situation and shall include in the contract a patent rights clause from 7-302.23(a), (b) or (c). The *Pre-Solicitation Patent Rights Documentation Checklist* set forth in 9-701.3(b) normally will be completed by cognizant technical personnel to enable the contracting officer to determine the appropriate clause(s) to be incorporated in solicitations for such work. If the clause in 7-302.23(a) is determined to be applicable, that clause alone shall be used in the solicitation. If this clause is determined to be inapplicable, both of the clauses in 7-302.23(b) and 7-302.23(c) shall be included in the solicitation together with the statement: "The Contracting Officer will determine during negotiation, in accordance with the guidelines of DAR 9-701.3, which of these two clauses will be included in the contract." Except when the clause in 7-302.23(a) is determined to be applicable, DD Form 1564, *Pre-Award Patent Rights Documentation*, normally will be included in each solicitation. In an unsolicited proposal situation, the proposer may be requested to complete DD Form 1564. The checklist and the form, if used, shall be made a part of the contract file (9-701.3(b)). When a determination to include the clause of 7-302.23(a) is based solely on the criterion of 9-701.2(a)(iii), a notice to that effect will be included in the solicitation, and the solicitation shall provide offerors with an opportunity to show that the selected clause proposed for a contract is inappropriate for the particular procurement situation. The contracting officer shall review the offeror's showing and if the contracting officer is not persuaded by the showing, he shall inform the offeror, in writing, of his conclusions and the reasons therefor. If the contracting officer and the offeror cannot then resolve the issue, the contracting officer will promptly forward the matter to the Chief of the Purchasing Office for resolution. If the award of the contract cannot be delayed, the contracting officer may proceed with the procurement pending resolution of the issue provided the clause of 7-302.23(a) is included in the contract accompanied by the statement: "Contractor agrees to accept the Patent Rights clause which is ultimately determined by the Chief of the Purchasing Office to be appropriate." This procedure is inapplicable to the "exceptional circumstances" situation of 9-701.2(a). In implementing 9-701.2(d), contractors in no event will be asked to state their willingness to grant the Government principal or exclusive patent rights prior to a determination that proposals of equivalent merit have been presented.

(2) The Patent Rights clause in 7-302.23(a) shall be used if it is determined that the experimental, developmental or research work to be performed under the contract falls within 9-701.2(a). This clause provides that the Government shall

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(e) When the principal or exclusive rights in an invention remain in the contractor, he should agree to provide written reports at reasonable intervals, when requested by the Government, on the commercial use that is being made or is intended to be made of inventions made under Government contracts.

(f) When the principal or exclusive rights in an invention remain in the contractor, unless the contractor, his licensee, or his assignee has taken effective steps within 3 years after a patent issues on the invention to bring the invention to the point of practical application or has made the invention available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why he should retain the principal or exclusive rights for a further period of time, the Government shall have the right to require the granting of a nonexclusive or exclusive license to a responsible applicant(s) on terms that are reasonable under the circumstances.

(g) When the principal or exclusive rights to an invention are retained by the contractor, the Government shall have the right to require the granting of a nonexclusive or exclusive license to a responsible applicant(s) on terms that are reasonable in the circumstances (i) to the extent that the invention is required for public use by governmental regulations, or (ii) as may be necessary to fulfill health or safety needs, or (iii) for other public purposes stipulated in the contract.

(h) When the principal or exclusive rights in an invention remain in the contractor, the Government shall normally acquire:

- (i) at least a nonexclusive, nontransferable, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and States and domestic municipal governments, unless the Secretary or his designee determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments; and
- (ii) the right to sublicense any foreign government pursuant to any existing or future treaty or agreement if the Secretary or his designee determines it would be in the national interest to acquire the right; and
- (iii) the principal or exclusive rights to the invention in any country in which the contractor does not elect to secure a patent.

(i) When the principal or exclusive rights in an invention are acquired by the Government, there normally will be reserved to the contractor a revocable, nonexclusive, royalty free license for the practice of the invention throughout the world, the right to revoke such license being reserved in order to grant an exclusive license when it is determined that some degree of exclusivity may be necessary to encourage further development and commercialization of the invention. When the Government has a right to acquire the principal or exclusive rights to an invention and does not elect to secure a patent in a foreign country, the contractor may be permitted to retain such rights in any foreign country in which he elects to secure a patent, subject to the Government's rights set forth in (h) above.

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(4) The Patent Rights clause in 7-302.23(c) shall be used when it is determined that the experimental, developmental or research work to be performed under the contract does not come within 9-701.2(a) or (b), but is within 9-701.2(c). The clause in 7-302.23(c) provides that the allocation of rights in inventions resulting from the contract shall be deferred until after an invention has been identified in accordance with the criteria of 9-703.6(d).

(5) In the special cases covered by the paragraphs below, the contracting officer shall follow the instructions and include the clauses required in such paragraphs:

- (i) 9-701.6, concerning foreign contracts;
- (ii) 9-701.7, concerning contracts relating to atomic energy;
- (iii) 9-701.8, concerning contracts placed for other Government agencies;
- (iv) 9-701.9, concerning contracts relating to space; or
- (v) 9-704, concerning personal services contracts.

(b) *Pre-Solicitation Patent Rights Documentation Checklist.*

(Authorized for local reproduction)
PRE-SOLICITATION PATENT RIGHTS DOCUMENTATION CHECKLIST

Procurement Identification:

Purpose of Proposed Procurement:

1. Is a principal purpose of the proposed contract, either by itself or as one of a series of directly related contracts, to create, develop or improve an end item intended for use by the general public?*

(See DAR 9-701.2(a)(1))

(Yes)..... (No).....

If "Yes," identify the end item and briefly describe its intended use by the general public.

2. Is a principal purpose of the proposed contract, either by itself, or as one of a series of directly related contracts to create, develop or improve an end item which is intended for use by the general public or will be required for such use by a Government regulation?

(Yes)..... (No).....

If "Yes," identify the end item and cite applicable regulation.

(See DAR 9-701.2(a)(1))

3. Is a principal purpose of the contract exploration into a field directly concerned with public health, public safety, or public welfare (as distinguished from items predominantly of military concern)?

(See DAR 9-701.2(a)(1))

(Yes)..... (No).....

If "Yes," identify such principal purpose of the contract and briefly describe its relationship to the public health, public safety, or public welfare.

4. Is the contract for procurement in a field of science or technology in which there has been little significant experience outside of work funded by the Government?*

(See DAR 9-701.2(a)(1))

(Yes)..... (No).....

If "Yes," briefly describe such field.

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acquire title, under certain circumstances, to inventions made in the course of or under the contract, subject to the reservation of nonexclusive license rights to the contractor. For the contract work to be determined as falling within 9-701.2(a)(ii), a principal purpose of the contract must be directly concerned with the public health, public safety or public welfare (e.g., drugs, medical instruments, water desalinization, environmental protection and weather modification.) The determination should not be influenced by the sole military application of such work. For the contract work to be determined as falling within 9-701.2(a)(iii), the contract must be for an end item in a field of science or technology in which there is little or no significant experience outside of work funded by the Government at the time the contract is entered into, or when at such time the Government has been the principal developer. For the contract work to be determined as falling within 9-701.2(a)(iv)(A), the contract must call for experimental, developmental or research work at the Government-owned facility. The expression "coordinating and directing the work of others" in 9-701.2(a)(iv)(B) does not refer to the normal prime contractor-subcontractor relationship, but instead refers to a relationship which may give rise to a potential organizational conflict-of-interest (see 1-113.2). The contractor may retain greater rights than a nonexclusive license after an invention has been identified if the contracting officer determines that the criteria of 9-703.6(c) are met. When the Secretary or his designee determines that exceptional circumstances exist as provided for in 9-701.2(a), paragraphs (b) and (i) of the clause prescribed in 7-302.23(a) may be appropriately modified so that the contractor retains greater rights than a nonexclusive license to all or specific inventions.

(3) The Patent Rights clause in 7-302.23(b) shall be used when it is determined that the experimental, developmental or research work to be performed under the contract does not come within 9-701.2(a) but is within 9-701.2(b). This clause provides that title to any inventions resulting from the contract remains in the contractor, subject to the acquisition of certain specified rights by the Government. In determining whether the contract falls within 9-701.2(b), the contracting officer shall first determine whether the work to be performed under the contract is in a field of technology directly related to an area in which the contractor has an established nongovernmental commercial position. In this determination, the phrase "field of technology" plays a significant role and should be interpreted in the light of the broad engineering principles and techniques involved in the research and/or development work to be performed under the contract rather than the nature of the end product or its intended governmental application. In determining whether the prospective contractor has an established nongovernmental commercial position, any of the following activities of the contractor directly related to a field of technology involved in the procurement can be considered as qualifying:

- (i) regular engagement as a manufacturer or source of products or services to the general domestic public, or to foreign governments, nationals or businesses, or to multi-national organizations; or
- (ii) development within the immediate past five years of non-governmental markets for inventions; or
- (iii) an effective program for the transfer of technology as by the licensing of inventions.

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patent rights to inventions resulting from Federally-financed research and development and on the use and practice of such inventions to serve as bases for policy review and development." The Presidential Statement also states that "Each agency shall record the basis for its actions with respect to inventions and appropriate contracts under this statement." Accordingly, procuring activities shall record and maintain in a readily available manner the bases for each of the following actions: (i) selection of a Patent Rights clause under 9-701.3(a), including the Pre-solicitation Patent Rights Documentation Checklist and the DD Form 1564, if used; (ii) finding of exceptional circumstances under 9-701.2(a); (iii) retention of greater rights determinations pursuant to 9-703.6; and (iv) determinations under 9-701.3(d) and (e). Contractors shall not be required to record and maintain the bases for such actions.

(d) *License for Government, States and Municipal Governments.* The policy set forth in 9-701.2(h)(i) provides that the Government shall normally acquire a paid-up license in any invention resulting from the contract for the Government, States and municipal government. Paragraph (c)(i) of the Patent Rights clauses in 7-302.23(a), (b) and (c) sets forth such a license. When the Secretary determines pursuant to 9-701.2(h)(i) that it would not be in the public interest in a particular contracting situation to acquire a license for the Government of the scope in paragraph (c)(i), this paragraph may be appropriately modified.

(e) *Right to Sublicense Foreign Governments.* Paragraph (c) of the Patent Rights clauses in 7-302.23(a), (b) and (c) does not provide the Government with the right to grant a sublicense, in any inventions resulting from the contract, to any foreign government pursuant to any treaty or agreement. However, where the acquisition of patent rights for the benefit of any foreign government is required under a treaty or executive agreement, paragraph (c) of the selected clause may be appropriately modified to the extent necessary for compliance therewith under the authority of 1-109.4.

(f) *Minimum Rights to Contractor.* The minimum rights which normally may be retained by a contractor in any invention made by the contractor in the course of or under a contract upon which a patent application has been filed is a revocable, nonexclusive, royalty free license as specified in the patent rights clause.

(g) *Subcontracts.*

(1) The policy expressed in 9-701.2 is applicable to all contract levels. Hence, a contractor awarding a subcontract and a subcontractor awarding a lower-tier subcontract, which has as a purpose the conduct of experimental, developmental or research work generally shall determine the DAR patent rights clause to be included therein which is consistent with the expressed policy. When conditions require, the contracting officer may direct a contractor to include a particular patent rights clause in any subcontract.

(2) The Patent Rights clause in 7-302.23(h) shall be included in all subcontracts, regardless of tier, with small business firms and nonprofit organizations having as a purpose of the subcontract the conduct of experimental, developmental or research work within the United States. See 9-702 relating to patent rights under contracts and subcontracts awarded to small business firms and nonprofit organizations.

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5. Is the contract for procurement in a field of science or technology in which the Government has been the principal developer of the field?*

(See DAR 9-701.2(a) (111))
(Yes)..... (No).....

If "Yes," briefly describe such field.

6. If the answer to either 4 or 5 is "Yes," would the contractor be likely to get a preferred or dominant commercial position in that field if he were permitted to retain title to inventions made under the contract?

(See DAR 9-701.2(a) (111))

(Yes)..... (No).....
Explain the answer.

7. Does the contract require that the contractor both (i) provide service for operation of a Government-owned research or production facility and (ii) perform experimental, developmental or research work at that facility?

(See DAR 9-701.2(a) (1v) (A))

(Yes)..... (No).....

8. Does the contract require the contractor to coordinate and direct the work of others (as distinguished from the normal contractor-subcontractor relationship) which might result in a potential organizational conflict of interest?

(See DAR 1-113.2; Appendix G, and 9-701.2(a) (1v) (B))

(Yes)..... (No).....

If "Yes," explain briefly why such a potential conflict of interest is considered to exist.

.....
(Typed Name, Office and Signature
of Person Completing This Form)

The Patent Rights (Acquisition by the Government) clause, DAR 7-302.23(a), will..... / will not..... be used in the solicitation.

(Give reasons for determination.)

.....
(Typed Name and Signature of
Contracting Officer or Representative)

*The contract or series of contracts need not necessarily require delivery of the end item. The end item may be a product, a process or data.

**The mere fact that the Government has been or is the principal funder or developer of a specific piece of hardware does not necessarily make the Government the principal funder or developer in a field of science or technology which encompasses the piece of hardware.

(c) *Record of Decisions.* The Presidential Statement on Government Patent Policy states that "The Federal Council for Science and Technology shall continue to acquire data from the Government agencies on the disposition of

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(ii) If the request states that an agency clause is required in any resulting contract and the work to be performed under the contract is severable and is only in part for the agency, then the work which is on behalf of the agency shall be identified in the contract and the agency clause shall be made applicable thereto. That portion of the work for a Department shall likewise be identified and the appropriate DAR patent rights clause shall be made applicable to such portion if a patent rights clause is required by this Regulation.

(iii) If the request states that an agency clause is not required in any resulting contract and the work to be performed under the contract is not wholly on behalf of the agency, then an appropriate DAR patent rights clause shall be used if a patent rights clause is required by this Regulation.

(iv) If the request states that an agency clause is not required in any resulting contract and such contract is wholly on behalf of the agency, then no patent rights clause shall be included in such contract.

(2) The price of any contract described in (1) above shall in no event be increased by reason of the inclusion of any patent rights clause in the contract.

(b) *Deviations.* No deviations shall be made under 1-109 in the clause of any other agency providing for property rights in inventions except with the prior approval of the agency. Requests for such deviations, whether individual or blanket, shall be processed in accordance with 1-109.3.

9-701.9 Contracts Relating to Space. In order that inventions arising out of Department of Defense sponsored space research and development may be available for use for the benefit of the general public in communications satellite systems, whether such systems are operated by or for the Government or by private enterprise for the transmission of commercial or Government traffic, the paragraph in 7-302.23(g) shall be substituted for paragraph (c)(i) of the Patent Rights clause in 7-302.23(a), (b) and (c) and for the instructional paragraph set forth in (3)(i) of 9-703.6(e) when a greater domestic rights determination is made in a situation in which the clause in 7-302.23(a) or (c) is applicable in any contract having as one of its purposes the performance of research and development work under a space program, project, or task, except as provided in 9-701.8.

9-702 Patent Rights Under Contracts Involving Research and Development with Small Business Firms and Nonprofit Organizations. This paragraph sets forth policies and procedures and prescribes a contract clause with respect to inventions made in the performance of work under a contract or subcontract entered into by or for the benefit of the Government with small business firms and nonprofit organizations to be performed within the United States where a purpose of the contract or subcontract is the conduct of experimental, developmental, or research work. See 9-701

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(3) Contractors shall not use their ability to award subcontracts as economic leverage to acquire rights for themselves in the inventions resulting from subcontracts.

(h) *Publication of Invention Disclosures.* The Patent Rights clauses of 7-302.23(a), (b) and (c) specify that the Government may duplicate and disclose disclosures of Subject Inventions, and all other reports and papers required to be furnished under the clauses. However, the public disclosure of information in such documents before the first-filed application (whether domestic or foreign) may create a bar to the patenting of the invention in foreign countries. Accordingly, to protect the mutual interests of the Government and its contractors in obtaining foreign patents on Subject Inventions, the Government and contractors should cooperate in deferring publication of such documents when practical until the filing of the first application and use their best efforts toward prompt filing when publication is imminent.

9-701.4 Reserved.

9-701.5 Reserved.

9-701.6 Clause for Foreign Contracts. A patent rights clause shall be included in every contract having as a purpose the conduct of experimental, developmental or research work which is to be performed outside the United States, its possessions, or Puerto Rico. Except as provided in 9-701.7 and 9-701.8, the clauses authorized in accordance with 9-701.2 and 9-701.3 may be used or replaced by any other clause tailored to meet requirements peculiar to foreign procurement provided the replacement clause incorporates the principles of the clause being replaced.

9-701.7 Contracts Relating to Atomic Energy. In all research and development contracts relating to the production or utilization of special nuclear material or atomic energy, the paragraph in 7-302.23(e) shall be added as a final paragraph to the applicable patent rights clause of 7-302.23(a), (b) or (c) included in such contracts.

9-701.8 Contracts Placed for Other Government Agencies.

(a) *Patent Rights Clause.*

(1) Other Government agencies may from time to time request the Department to place contracts on behalf of the agencies. Such requests will state whether or not an agency clause providing for property rights in inventions is required, and the request should have attached thereto the appropriate clause desired by the agency. If such clause is not furnished by the agency, it must be obtained from the agency and be included in the contract. The following rules amplify the use of patent rights clauses in such contracts:

(i) If the request states that an agency clause is required in any resulting contract and the work to be performed under the contract is not severable and is funded wholly or in part by the agency, then the agency clause and no other patent rights clause shall be included in the contract;

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for policies, procedures and prescribed contract clauses relating to contracts and subcontracts awarded to other than small business firms and nonprofit organizations.

9-702.1 *Policy.* Public Law 96-517 (35 U.S.C. 200 et seq.), December 12, 1980, governs the distribution of rights in inventions made by small business firms and nonprofit organizations under funding agreements with Federal agencies. Congress provided that this act takes precedence over any other acts which would require a disposition of rights in Subject Inventions of small business firms or nonprofit organizations in a manner inconsistent with the new act. Additionally, the new act will take precedence over any future act unless the future act cites the new act and provides that it will take precedence. This paragraph takes effect on July 1, 1981, and will be applicable to all contracts with small business firms and nonprofit organizations executed on or after that date which are to be performed within the United States. This paragraph may also be made applicable by mutual agreement to any Subject Inventions which are "made" on or after July 1, 1981, in the performance of contracts which were awarded prior to July 1, 1981, to small business firms or nonprofit organizations, unless prohibited by law.

9-702.2 *Definitions.* As used in this paragraph:

- (a) *Contractor* means any small business firm or nonprofit organization.
- (b) *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code.
- (c) *Subject Invention* means any invention of the contractor conceived or first actually reduced to practice in the performance of work under a contract.
- (d) *Practical Application* means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.
- (e) *Made*, when used in relation to any invention, means the conception or first actual reduction to practice of such invention.

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- (f) *Small Business Firm* means a small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this paragraph, the size standard for small business concerns involved in Government procurement, contained in 13 CFR 121.3-8, and subcontracting contained in 13 CFR 121.3-12, will be used. (See DAR 1-701.1.)
- (g) *Nonprofit Organization* means universities and other institutions of higher education, or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501a), or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

9-702.3 *Procedures.*

- (a) *Use of the Patent Rights (Small Business Firm or Nonprofit Organization) Clause.*

(1) Each contract awarded to a small business firm or nonprofit organization, which is to be performed in the United States, its possessions, or Puerto Rico, and has as a purpose the performance of experimental, developmental, or research work, shall contain the Patent Rights (Small Business Firm or Nonprofit Organization) (1981 JUL) clause set forth in 7-302.23(h), except that the contract may provide otherwise--

- (i) when the contract is for the operation of a Federally Funded Research and Development Center or a Government-owned production facility;
- (ii) in exceptional circumstances when it is determined by the Secretary that restriction or elimination of the right to retain title to any Subject Invention will better promote the policy and objectives of chapter 38 of title 35 of the United States Code; or
- (iii) when it is determined by a Government authority which is authorized by statute or executive order to conduct foreign intelligence or

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that it would be in the national interest to acquire the right to sublicense foreign governments or international organizations pursuant to any existing or future treaty or agreement, a sentence will be added at the end of paragraph (b) of the Patent Rights clause in 7-302.23(h) as follows:

This license will include the right of the Government to sublicense foreign governments and international organizations pursuant to any existing or future treaty or agreement with such foreign governments or international organizations.

(c) Minimum Rights to Contractor.

(1) Paragraph (e) of the Patent Rights clause in 7-302.23(h) specifies the minimum rights retained by the contractor in Subject Inventions. When the Federal Government acquires title to a Subject Invention, the contractor will retain a revocable, nonexclusive, royalty-free license throughout the world in the Subject Invention. The contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the contractor is a part and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time contract was awarded. The license is transferable only with the approval of the contracting officer except when transferred to the successor of that part of the contractor's business to which the invention pertains.

(2) The contractor's domestic license may be revoked or modified to the extent necessary to achieve expeditious practical application of the Subject Invention pursuant to an application for an exclusive license submitted in accordance with departmental licensing regulations. This license will not be revoked in that field of use or the geographical areas in which the contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified to the extent the contractor, its licensees or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

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counterintelligence activities that the restriction or elimination of the right to retain title to any Subject Invention is necessary to protect the security of such activities.

(2) Any determination under (ii) above will be in writing and accompanied by a written statement of facts justifying the determination. The statement of facts will contain such information as is deemed relevant and, as a minimum, will (i) identify the small business firm or nonprofit organization involved, (ii) describe the extent to which the right to retain title to a subject invention is restricted or eliminated, (iii) state the facts and rationale supporting the action, (iv) provide supporting documentation for those facts and rationale, and (v) indicate the nature of any objections to the action and provide any documentation in which those objections appear. A copy of each such determination and written statement of facts will be sent by the Secretary or his designee to the Comptroller General of the United States within 30 days after the award of the applicable contract. In cases of determinations applicable to contracts with small business firms, copies will also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

(3) To qualify for the Patent Rights (Small Business Firm or Nonprofit Organization) clause, the small business firm or nonprofit organization must state in writing that it qualifies as a small business firm or nonprofit organization as defined in 9-702.2(f) and (g). If the contracting officer has reason to question the status of the small business firm or nonprofit organization under the definitions in 9-702.2(f) and (g), he may file a protest in accordance with 13 CFR 121.3-5 in regard to the status of the small business firm, or he may require the nonprofit organization to furnish evidence to establish that it satisfies the requirements of the definition in 9-702.2(g).

(4) Whenever the use of the Patent Rights (Small Business Firm or Nonprofit Organization) clause is not appropriate, the procedures of 9-701.3 shall be followed in selecting an appropriate patent rights clause for inclusion in a contract or subcontract.

(b) *Right to Sublicense Foreign Governments and International Organizations.* When the head of the contracting activity determines at the time of contracting with a small business firm or nonprofit organization

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(3) Before revocation or modification of the license, the contracting officer will furnish the contractor a written notice of intention to revoke or modify the license, and the contractor will be allowed 30 days (or such other time as may be authorized by the contracting officer for good cause shown by the contractor) after the notice to show cause why the license should not be revoked or modified. The contractor has the right to appeal, in accordance with the departmental licensing regulations, any decision concerning the revocation or modification.

(d) Subcontracts.

(1) The Patent Rights clause in 7-302.23(h) will be included in all subcontracts, regardless of tier, with small business firms and nonprofit organizations having as a purpose of the subcontract the conduct of experimental, developmental, or research work within the United States. All subcontracts, regardless of tier, with other than a small business firm or nonprofit organization having as a purpose of the subcontract the conduct of experimental, developmental, or research work will include one of the patent rights clauses required by 9-701.

(2) Contractors will not use their ability to award subcontracts as economic leverage to acquire rights for themselves in the inventions resulting from subcontracts.

(e) Publication or Release of Invention Disclosures.

(1) The publication of information disclosing an invention by any party before the filing of a patent application may create a bar to a valid patent. When the contractor intends to file patent applications, the contracting activity will use reasonable efforts to comply with any written request to restrict its publication of information disclosing the invention in order to protect the patent rights in the invention. The contractor must specify the reports and documents to be restricted and the period within which the patent application will be filed.

(2) As provided in 35 U.S.C. 205, Federal agencies are authorized to withhold from disclosure to the public information disclosing any Subject Invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license), for a reasonable time in order for a patent application to be filed. Furthermore, Federal Agencies are not required to release copies of any document which is part

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of an application for patent filed with the United States Patent and Trademark Office or with any foreign patent office.

(f) Reporting on Subject Inventions and Subcontracts.

(1) The contracting activity may require the contractor to furnish a copy of each subcontract containing a patent rights clause.

(2) The clause in 7-302.23(h) requires the contractor to submit interim and final invention reports, preferably on DD Forms 882, listing Subject Inventions and notifying the contracting officer of all subcontracts awarded for experimental, developmental, or research work.

(3) The clause in 7-302.23(h) requires the contractor to submit information regarding the filing date, serial number and title, and upon request, a copy of the patent application (including an English-language version if filed in a language other than English), and patent number and issue date, for any Subject Invention in any country for which the contractor has retained title.

(4) The clause in 7-302.23(h) requires the contractor, within 6 months after filing each patent application, or within 6 months after submitting the invention disclosure, if the application has been previously filed, to deliver to the contracting officer an instrument confirmatory of all rights to which the Government is entitled and to furnish the Government an irrevocable power to inspect and make copies of the patent application file.

(5) The contracting activity may require the contractor to submit periodic reports on the utilization of a Subject Invention, or on efforts at obtaining utilization, that are being made by the contractor or its licensees or assignees.

9-702.4 Reserved.**9-702.5 Reserved.**

9-702.6 Retention of Rights by Inventor. In contracts with small business firms or nonprofit organizations, if the contractor does not elect to retain title to a Subject Invention, the contracting activity may consider and, after consultation with the contractor, may grant requests for retention of rights by the inventor. Retention of rights by the inventor will be subject to the same conditions as retention of rights by the contractor.

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dispute over the material facts upon which the march-in is based. If the information presented raises a genuine dispute over the material facts, the Secretary of the Department or his designee shall refer the matter to another official of the Department for fact-finding;

(iii) fact-finding shall be conducted in accordance with the procedures issued by the Department. Such procedures shall be as informal as practicable and be consistent with principles of fundamental fairness. The procedures shall afford the contractor the opportunity to appear with counsel, submit documentary evidence, present witnesses and confront such persons as the Department may present. A transcribed record shall be made and shall be available at cost to the contractor upon request. The requirement for a transcribed record may be waived by mutual agreement of the contractor and the Department.

(iv) the departmental official conducting the fact-finding shall prepare written findings of fact and transmit them to the Secretary of the Department or his designee promptly after the conclusion of the fact-finding proceeding. A copy of the findings of fact shall be sent to the contractor (assignee or exclusive licensee) by certified or registered or certified mail;

(v) in cases in which fact-finding has been conducted, the Secretary of the Department or his designee shall base his determination on the facts found, together with any other information and argument submitted by the contractor (assignee or exclusive licensee) and any other information in the administrative record. In cases referred for fact-finding, the Secretary of the Department or his designee may reject

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9-702.7 *Government Assignment to Contractor of Rights in Invention of Government Employee.* In any case when a Federal employee is a coinventor of any invention made under a contract with a small business firm or nonprofit organization, the military department employing such coinventor may transfer or reassign whatever right it may acquire in the Subject Invention from its employee to the contractor, subject to the conditions of 35 U.S.C. 200 et seq.

9-702.8 *Exercise of March-in Rights.* The following procedures shall govern the exercise of the march-in rights set forth in 35 U.S.C. 203 and in paragraph (j) of the clause in 7-302.23(h):

(1) a march-in proceeding shall be initiated by the issuance of a written notice by the Secretary of the Department or his designee to the contractor and its assignee or exclusive licensee, as applicable, stating that the Government is considering the exercise of march-in rights. The notice shall state the reasons for the proposed march-in in terms sufficient to put the contractor on notice of the facts upon which the action is based and shall specify the field or fields of use in which the Government is considering requiring licensing.

The notice shall advise the contractor (assignee or exclusive licensee) of its rights as set forth in this paragraph and in any supplemental departmental regulations or procedures. The determination to exercise march-in rights shall be made by the Secretary of the Department or his designee;

(ii) within 30 days after receipt of the written notice of march-in, the contractor (assignee or exclusive licensee) may submit, in person, in writing, or through a representative, information and argument in opposition to the proposed march-in, including any additional specific information which raises a genuine

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royalties and to defend themselves against claims and suits for patent infringement. To attain these ends, contracts having patent rights clauses should be so administered that:

- (i) inventions are identified, disclosed and reported as required by the contract clauses;
- (ii) the rights of the Government in such inventions are established;
- (iii) when appropriate, patent applications are timely filed and prosecuted by contractors or by the Government;
- (iv) the rights of the Government in filed patent applications are documented by formal instruments such as licenses or assignments; and
- (v) expeditious commercial utilization of such inventions is achieved.

9-703.2 Follow-up by Contractor. Each contractor shall establish and maintain effective procedures to ensure that Subject Inventions are timely identified, disclosed and, when appropriate, patent applications filed so that the Government's rights therein are established and protected.

9-703.3 Follow-up by Government.

(a) Each Department shall maintain "follow-up" procedures to assure that Subject Inventions are identified, disclosed, and when appropriate, patent applications filed, and that the Government's rights therein are established and protected. Follow-up activities for contracts which include a clause referenced in 9-70L.7 or 9-70L.8 shall be coordinated with the appropriate agency.

(b) The contracting officer administering the contract shall be responsible for receiving invention disclosures, reports, confirmatory instruments, notices, requests, and other documents and information submitted by the contractor pursuant to a patent rights clause. When the contractor fails to furnish documents or information called for by the clause within the time required by the clause, the contracting officer administering the contract shall promptly request the contractor to supply the required documents or information and, if the failure persists, shall take appropriate action to secure compliance. Invention disclosures, reports, confirmatory instruments, notices, requests, and other documents and information relating to patent rights clauses shall be sent by the contracting officer administering the contract to the procuring Department for appropriate action.

(c) The procuring Department shall establish a method to detect and correct failures by the contractor to comply with his obligations under the patent rights clauses, such as failures to disclose and report Subject Inventions, both before and after the contract otherwise has been performed. This effort should be directed primarily towards contracts which because of the nature of the research, development or experimental work or the large dollar amount spent on such work, are more likely to result in Subject Inventions significant in number or quality, and towards contracts when there is reason to believe the contractors may not be complying with their contractual obligations. Other contracts should be spot-checked when feasible. As a minimum, appropriate follow-up activities shall include the investigation or review of selected contracts or contractors by an individual or team qualified in patent and technical matters.

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only those facts that have been found that are not clearly erroneous. Prompt written notice of the determination whether march-in rights will be exercised shall be made by the Secretary of the Department or his designee and sent to the contractor (assignee or exclusive licensee) by certified or registered mail; and

- (vi) Departments are authorized to issue supplemental procedures, not inconsistent herewith, for the conduct of march-in proceedings.

9-702.9 Licensing of Background Patent Rights to Third Parties.

(a) A contract with a small business firm or non-profit organization will not contain a provision allowing the Government to require the licensing to third parties of inventions owned by the contractor that are not Subject Inventions unless such provision has been approved by the Secretary and a written justification has been signed by the Secretary. Any such provision will clearly state whether the licensing may be required in connection with the practice of a Subject Invention, a specifically identified work object, or both. The Secretary may not delegate the authority to approve such provisions or to sign justifications required for such provisions.

(b) The Government will not require the licensing of third parties under any such provision unless the Secretary determines that the use of the invention by others is necessary for the practice of a Subject Invention or for the use of a work object of the contract and that such action is necessary to achieve the practical application of the Subject Invention or work object. Any such determination will be on the record after an opportunity for a hearing. Any action commenced for judicial review of such determination will be brought within 60 days after notification to the contractor of such determination.

9-703 Administration of Patent Rights Clauses.

9-703.1 Patent Rights Follow-up. It is important that the Government and the contractor know and exercise their rights in inventions conceived or first actually reduced to practice in the course of or under Government contracts in order to ensure their expeditious availability to the public, and to enable the Government, the contractor and the public to avoid unnecessary payment of

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ASSIGNMENT

Inventor(s):
 Contractor:
 Contracting Government Agency:
 Contract No.:
 Application Title:
 Contractor's Invention Docket No.:
 Agency Invention Docket No.:
 Serial No.: Filing Date:
 Date(s) Inventor(s) Executed Oath:

The undersigned Inventor(s), in recognition of his (their) obligation as employee(s) of the Contractor to assign inventions to the Contractor, and pursuant to the obligations of the Contractor to the Government under the above contract hereby assigns (assign) to the United States of America, as represented by the above-identified agency, the entire right, title, and interest in and to each invention disclosed and claimed in the above U.S. patent application, and any substitution, division, continuation-in-part, or continuation of such patent application and any application for reissue of any patent resulting from such patent application, subject to the reservation of the following license, if any, to the Contractor.

Any license reserved to the Contractor shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be transferable only with approval of the agency, except when transferred to the successor of that part of the Contractor's business to which such invention pertains.

The Inventor(s) further agrees (agree) to assist the Contractor and the Government, upon request, by furnishing any available information and documents, performing all acts, and doing all things which may be reasonably necessary to make this assignment effective.

The Contractor joins in and agrees to this assignment, and except for the above reservation of a license, if any, relinquishes and assigns the entire right, title and interest in and to such inventions, and further agrees to furnish to the Government, upon request, any available information and documents necessary for the prosecution of the above-identified application for patent.

Signed this day of 19
 * (SEAL)

* INVENTOR

* ATTEST:
 * Repeat for each inventor.

Signed this day of 19

CONTRACTOR'S OFFICIAL & TITLE
 ATTEST:

(b) When the Government is entitled to a paid-up license in a Subject Invention pursuant to a contract, the following format shall be used by the contractor or the party retaining title.

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(d) Follow-up activities should include use of Government patent personnel:
 (i) to interview Departmental technical personnel to identify novel developments made in contracts under their cognizance;
 (ii) to review technical reports submitted by contractors with cognizant Departmental technical personnel;

(iii) to check the Official Gazette of the United States Patent and Trademark Office and other sources for patents issued to the contractor in fields related to his Government contracts; and
 (iv) if additional information is required, to have cognizant Government personnel interview contractor personnel as to work under the contract involved, observe the work on site, and inspect laboratory notebooks and other records of the contractor related to work under the contract.

9-703.4 Remedies. When a contractor or subcontractor is determined not to have a clear understanding of the rights and obligations of the parties under a patent rights clause, or his procedures for complying with the clause are deficient in some respect, a post-award orientation conference or letter should be used to explain these rights and obligations (see Section I, Part 18). If a contractor fails to establish, maintain or follow effective procedures of identifying, disclosing and, when appropriate, filing patent applications on inventions, if such procedures are required by the patent rights clause, or fails to correct any deficiency after notice thereof, the contracting officer may require the contractor to make available for examination, books, records and documents relating to the contractor's inventions in the same field of technology as the contract effort to enable a determination by the contracting officer of whether there are such inventions, and may invoke the withholding of payments provision of the clause. Further, the contracting officer may invoke the withholding of payments provision if the contractor fails to disclose an invention deemed by the contracting officer to be a Subject Invention. Significant or repeated failures by a contractor to comply with the patent rights clauses of his contracts shall be documented (see 1-905.1(c)).

9-703.5 Conveyance of Invention Rights Acquired by the Government.

(a) When the Government acquires the entire right, title, and interest in an invention pursuant to a contract, assignments are required from the inventor to the contractor and from the contractor to the Government, or from the inventor to the Government with the consent of the contractor, to establish clearly the chain of title from the inventor to the Government. The form of conveyance of title from the inventor to the contractor must be legally sufficient to convey the rights the contractor is required to convey to the Government. The optional form of assignment set forth below provides the complete chain of title in a single instrument and may be used to convey title to the Government. Alternatively, if separate assignments are used, both documents shall be forwarded simultaneously. All assignments shall be submitted to the contracting officer.

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CONFIRMATORY INSTRUMENT
(Title of Invention)

Application for:
 Inventor(s):
 Serial No.:
 Filing Date:
 The invention identified above is a "Subject Invention" under Patent Rights clause, (identify clause by title and date) included in Contract No.
 with (specify Government agency) which (does) / (does not) include the communications satellite paragraph of DAR 7-302.23(g).
 This document is confirmatory of the paid-up license granted to the Government under this contract in this invention, patent application and any resulting patent, and of all other rights acquired by the Government by the referenced clause.
 The Government is hereby granted an irrevocable power to inspect and make copies of the above-identified patent application.

Signed this day of 19 -
 (SEAL)

..... (Contractor)

By
 Contractor's Official & Title
 (Business Address)

(c) Register of Government Rights in Inventions. Licenses, assignments, or other documents evidencing any rights of the Government in inventions shall be reviewed by the Departments to assure that each such document fully confirms the rights to which the Government is entitled. The original and a copy of each such document shall be forwarded to the activity designated by Departmental regulations for receiving such documents. This latter activity shall forward the originals of all licenses, assignments, or other documents evidencing any rights of the Government in or under any patents or applications for patents to the Commissioner of Patents and Trademarks for recording in accordance with Executive Order No. 9424 of 18 February 1944.

9-703.6 Retention of Greater Rights.

(a) Request for Retention of Greater Domestic Rights.

(1) A contractor's request for a determination that he retain greater domestic rights in an identified Subject Invention under a contract containing one of the patent rights clauses of 7-302.23(a) or (c) shall be submitted in writing to the contracting officer within the time period set forth in these clauses. The request may be made by the contractor or by the employee-inventor(s) of the contractor with the authorization of the contractor.

(2) The following information, as appropriate, shall be submitted in support of a request for a determination under any of the clauses:

- (i) identification by number of the prime contract and any subcontract, under which the invention was made, the contracting office and the applicable patent rights clause;
- (ii) a copy of the invention disclosure or a brief description of the invention and identification of the inventor(s);
- (iii) whether the invention is of a type identified in (b)(i) through (iii) below;

- (iv) the nature and extent of rights desired;
- (v) intended commercial market(s) for the invention and any relationship of such market(s) to the requesting party's established markets;
- (vi) if further development of the invention is needed to render the invention suitable for the intended commercial market(s), the extent of such development intended to be undertaken by the requesting party and the requesting party's capabilities for undertaking such development;
- (vii) if manufacture and/or marketing of the invention are intended to be undertaken by the requesting party, the manufacturing and/or marketing capabilities of the requesting party;
- (viii) if licensing of the invention is intended, the requesting party's experience and program in licensing rights to inventions, especially in the intended commercial market(s);
- (ix) if the invention is of a type identified in (b) (i) through (iii) below, evidence that the acquisition of the desired rights is a necessary incentive to call forth private funding to bring the invention to the point of practical application, or that the Government's contribution to the making of the invention is small compared to that of the requesting party;
- (x) if the requesting party is the employee-inventor, a copy of the contractor-employer's authorization;
- (xi) if the Patent Rights-Acquisition by the Government clause is applicable, whether the invention is directly related to a principal purpose of the contract; and
- (xii) if the Patent Rights-Deferred clause is applicable, and the invention is not of a type identified in (b)(i) through (iii) below, any available information indicative of the likelihood of more expeditious development to the point of practical application of the invention by the inventions and plans of the requesting party than by the activities of the Government.

(b) Consideration of Requests for Retention of Greater Domestic Rights. The contracting officer shall consider each request for a determination for the retention of greater domestic rights submitted within the period specified in the Patent Rights clause and shall make the determination in accordance with the criteria of the following paragraphs (c) and (d), as applicable. In general, more stringent criteria are to be applied in considering requests pertaining to inventions which are:

- (i) intended to be developed for commercial use or to be required for such use by governmental regulations; or
- (ii) directly concerned with the public health, welfare or safety; or
- (iii) in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the exclusive rights might confer on the contractor a preferred or dominant position; particularly when any such invention is directly related to a principal purpose of a contract containing the Patent Rights-Acquisition by the Government clause.

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(c) *Criteria for a Determination for the Retention of Greater Rights Under the Patent Rights-Acquisition by the Government Clause.* When the request for a determination for the retention of greater rights relates to an invention made under a contract containing the clause of 7-302.23(a):

- (i) the requesting party may retain greater rights where the contracting officer finds the invention is within (b)(i) through (b)(iii) above and is directly related to a principal purpose of the contract, and determines that the requesting party has *conclusively* established that:
 - (A) the greater rights are a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application; or
 - (B) the Government's contribution to the invention is small compared to that of the requesting party;
- (ii) the requesting party may retain greater rights where the contracting officer finds the invention is within (b)(i) through (b)(iii) above and is *not* directly related to a principal purpose of the contract, and determines that the requesting party has *convincingly* established that:
 - (A) the greater rights are a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application; or
 - (B) the Government's contribution to the invention is small compared to that of the requesting party; or
- (iii) the requesting party may retain the desired greater rights where the contracting officer finds the invention is *not* within (b)(i) through (b)(iii) above and determines that the requesting party has *adequately* established that the invention will be more expeditiously developed to the point of practical application by his intentions and plans than by the activities of the Government.

(d) *Criteria for a Determination for the Retention of Greater Rights Under the Patent Rights-Deferred Clause.* When the request for a determination for the retention of greater rights relates to an invention made under a contract containing the clause of 7-303.23(c):

- (i) the requesting party may retain greater rights where the contracting officer finds the invention is within (b)(i) through (b)(iii) above and determines that the requesting party has *convincingly* established that:
 - (A) the greater rights are a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application; or
 - (B) the Government's contribution to the invention is small compared to that of the requesting party; or
- (ii) the requesting party may retain greater rights where the contracting officer finds the invention is *not* within (b)(i) through (b)(iii) above and determines that the requesting party has *adequately* established that the invention will be more expeditiously developed to the point of practical application by his intentions and plans than by the activities of the Government.

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(e) *Greater Domestic Rights Determinations.*

(1) The contracting officer shall notify the party requesting a determination for the retention of greater rights in writing of the decision. If the determination constitutes a partial or complete denial of the greater rights requested to be retained, the notification shall set forth the reasons therefor (see 9-701.3(c)).

(2) When the determination provides for the requesting party to retain title, the determination shall require that a domestic patent application be filed on the invention, shall state that it is conditioned upon compliance with the filing period provisions of (i) below, and require compliance with the provisions of (ii) to (v) below:

- (i) the application shall be filed within 6 months from the date of the determination, or such longer period as may be approved in writing by the contracting officer for good cause shown in writing by the requesting party;
- (ii) for each patent application filed, the party shall:
 - (A) within 2 months after such filing, or within 2 months after the date of a determination if such patent application previously has been filed, deliver to the contracting officer a copy of the application as filed, including the filing date and serial number;
 - (B) include the following statement in the second paragraph of the specification of the application and any issuing patent: "The Government has rights in this invention pursuant to Contract (or Grant) Number awarded by (Identify the Department)";
 - (C) within 6 months after such filing, or within 6 months after submission of the invention disclosure if the patent application has been previously filed, deliver to the contracting officer a duly executed and approved instrument on the form specified in 9-703.5(b) fully confirmatory of all the rights to which the Government is entitled, and provide the Department an irrevocable power to inspect and make copies of the patent application file;
 - (D) provide the contracting officer with a copy of the patent within 2 months after a patent issues on the application; and
 - (E) not less than 30 days before the expiration of the response period for any action required by the Patent and Trademark Office, notify the contracting officer of any decision not to continue prosecution of the application and deliver to the contracting officer executed instruments granting the Government a power of attorney to prosecute the application; and
- (iii) if the requesting party fails to file an application within the prescribed time periods, or decides not to continue prosecution of the application, or no longer desires to retain title, he shall convey to the Government, upon request, his entire right, title, and interest in the invention, and to any corresponding patent application or patent. The conveyance shall be made by delivering to the contracting officer duly executed instruments (prepared by the Government) and,

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if applicable, such other papers as are deemed necessary to vest in the Government the entire right, title, and interest in the invention and any corresponding patent application and to enable the Government to prosecute the application.

(3) When the determination provides for the requesting party to retain title, the determination shall also require the requesting party to:

- (i) grant to the government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by, or on behalf of, the Government of the United States (including any Government agency) and States and domestic municipal governments. Nothing contained herein shall be deemed to grant any rights with respect to any inventions other than a Subject Invention;
- (ii) agree to grant, upon request of the Government, a license on terms that are reasonable under the circumstances to responsible applicants:
 - (A) unless the contractor, his licensee, or his assignee demonstrates to the Government that effective steps have been taken within 3 years after a patent issues on such invention to bring the invention to the point of practical application or that the invention has been made available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why the principal or exclusive rights should be retained for a further period of time; or
 - (B) to the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill public health, welfare or safety needs, or for other public purposes stipulated in this contract;
- (iii) submit written reports at reasonable intervals upon request of the Government, during the term of the patent on the Subject Invention as to:
 - (A) the commercial use that is being made or is intended to be made of such invention; and
 - (B) the steps taken by the contractor or his transferee to bring the invention to the point of practical application, or to make the invention available for licensing;
- (iv) agree to arrange, when licensing any Subject Inventions, to avoid royalty charges on procurements involving Government funds, including funds derived through the Military Assistance Program of the Government or otherwise derived through the Government, and to refund any amounts received as royalty charges on any Subject Invention in procurements for, or on behalf of, the Government, and to provide for such refund in any instrument transferring rights in such invention to any party; and
- (v) agree to provide for the Government's paid-up license pursuant to (i) above in any instrument transferring rights in a Subject Invention and to provide for the granting of licenses as required by (ii) above,

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and for the reporting of utilization information as required by (iii) above whenever the instrument transfers principal or exclusive rights in any Subject Invention.

When the determination is made in a situation in which one of the Patent Rights clauses of 7-302.23(a) or (c) is applicable, the above requirements of this subparagraph (3) may be indicated in the determination by reference to paragraph (c) "Minimum Rights Granted to the Government" of the applicable clause.

(f) Greater Foreign Rights Determinations.

- (1) A request for a determination of retention of greater foreign rights in an invention under the patent rights clauses of either 7-302.23(a) or (c) may accompany a request for a determination of retention of greater domestic rights or may be submitted independently thereof. The request shall be submitted to the contracting officer and shall contain the following information:
 - (i) identification by number of the prime contract and any subcontract under which the invention was made, the contracting office and the applicable patent rights clause;
 - (ii) a copy of the invention disclosure or a brief description of the invention and identification of the inventor(s);
 - (iii) the countries in which the requesting party intends to file a patent application; and
 - (iv) other information required by the contracting officer.
- (2) If the Government intends not to file a patent application on the invention in any foreign country in which the requesting party intends to file, the contracting officer may authorize the requesting party to retain the principal rights, and to file a patent application, in each such foreign country if the contracting officer determines such authorization to be in the public interest. The contracting officer shall notify the requesting party in writing of his determination. If the determination constitutes a partial or complete denial of the foreign rights requested, the notification shall set forth the reasons therefor. (See 9-701.3(c).)
- (3) When the determination requires the requesting party to file and prosecute a foreign patent application on the invention, the determination shall be subject to the following provisions:
 - (i) the requesting party shall grant to the Government a nonexclusive, nontransferable, paid-up license to practice and have practiced the invention by or on behalf of the Government in each foreign country in which an application is filed;
 - (ii) the requesting party shall file and prosecute a patent application on the invention in (*identify the foreign countries*) in accordance with applicable statutes and regulations and within one of the following periods:
 - (A) 8 months from the date a corresponding United States patent application is filed by or on behalf of the requesting party; or if such an application is not filed, 6 months from the date of this determination;
 - (B) 6 months from the date a license is granted by the Commissioner of Patents and Trademarks to file foreign applications where such filing has been prohibited by security reasons; or

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CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

clusively for experimental, developmental, or research work in the field of construction or architect-engineering. Where the contract calls for either experimental, developmental, or research work or supplies and materials, in addition to either construction or architect-engineer work, the clause in 7-103.22 shall be used.

18-903 Patent Indemnification of Government by Contractor.

18-903.1 General. A patent indemnity clause shall not be included in contracts calling solely for architect-engineer or experimental, developmental, or research work in the field of construction.

18-903.2 Patent Indemnity Clauses in Supply Contracts. See 9-103. The clause required by 9-103.1 relating to the procurement of supplies are applicable when the procurement is solely for construction materials or supplies as such, as distinguished from "construction" as defined in 18-101.1.

18-903.3 Patent Indemnity Clause in Construction Contracts.

(a) Except where complete performance is to be accomplished outside the United States, its possessions, and Puerto Rico, all contracts in excess of \$10,000 calling for "construction" as defined in 18-101.1 shall contain the clause in 7-602.16(a) (see Standard Form 23-A).

(b) If it is determined that the construction will necessarily involve the use of structures, products, materials, equipment, processes, or methods which are non-standard, noncommercial or special, the contract may list them in the specifications and may expressly exclude them from the patent indemnification by inserting in the contract the clause in 7-602.16(b).

18-903.4 Waiver of Indemnity by the Government. Exemption of specific patents from the patent indemnity provisions of the clauses prescribed in 18-903.2 and 18-903.3(a) shall be made only upon the authorization of the Secretary concerned or his authorized representative in accordance with 9-103.4.

18-904 Notice and Assistance. Subject to the prohibitions of 9-104, all contracts calling for construction work shall include the Notice and Assistance Regarding Patent and Copyright Infringement clause in 7-103.23.

18-905 Approval of Restricted Designs. Specifications for construction should allow for maximum latitude in the use of various types of commercially available products, materials, equipment or processes which will meet objective Government requirements. However, Government requirements may necessitate, or the architect-engineer may contemplate the use of structures, products, materials, equipment or processes which are available only from a sole source. In such event the architect-engineer should report to the contracting officer the items known to him to be sole source, and the reasons therefore, and advise the contracting officer of the extent to which such items are considered necessary to meet the Government's requirements. This will make possible timely planning and arrangements for the use of sole source items, or where appropriate, to consider alternate items. It is to be emphasized that this procedure is not intended to restrict the use of patented, or copyrighted items, but is merely to give the Government an opportunity to consider whether the specifications being drawn by the architect-engineer, in regard to any one item, are unnecessarily restricted, according to objective Government requirements, to a single sole item. The procedure is primarily for use in instances where the proposed design is expected

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(C) such longer period as may be approved by the contracting officer;

(iii) the requesting party shall notify the contracting officer promptly of each foreign application filed and, upon written request of the contracting officer, shall furnish an English version of such foreign application without additional compensation; and

(iv) if the requesting party files a patent application on a Subject Invention in any foreign country, or if a patent is obtained on such application, the party shall notify the contracting officer, not less than 60 days before the expiration period for any action required by the foreign patent office, of any decision not to continue prosecution of the application or not to pay any maintenance fee covering the invention and within such period shall deliver to the contracting officer:

(A) executed instruments granting to the Government a power of attorney in the application;

(B) an English version of the application, if not previously provided; and

(C) upon request, a conveyance of the party's entire right, title, and interest in the invention in the foreign country, and to any corresponding patent application or patent.

9-704 Patent Rights Under Contracts for Personal Services.

(a) Except as provided in (b) below, the clause in 7-503.9 which is based on Executive Order 10096, shall be inserted in all contracts with individuals who are to render personal services.

(b) When it is contemplated that research, experimental, or developmental work will not be involved, paragraph (b) of the clause may be omitted. In addition, the clause may be modified or omitted when:

(i) the period of employment is to be not more than 90 days in any one calendar year; or

(ii) (A) the period of employment called for in the contract or in any renewal thereof is more than 90 days but not more than one year of full-time service, and

(B) the prospective contractor is bound by an obligation which existed prior to entering into the proposed contract with the Government and which was not entered into in contemplation thereof, and the discharge of which would be inconsistent with the discharge of any obligation arising under Executive Order 10096

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to be conventional or standard and where the design may be used in subsequent procurements. For this purpose, the clause in 7-608.13 may be inserted in architect-engineer contracts.

18-906 Processing of Infringement Claims. See Section IX, Part 4.

18-907 Classified Contracts. See 9-106.

18-908 Patent Rights.

(a) Any construction or architect-engineer contract which calls for or can be expected to involve the design, for use in the construction or operation of a Government facility, of novel structures, machines, products, materials, processes, or equipment (including construction equipment), and any contract having as one of its purposes the performance of experimental, developmental, or research work or test and evaluation studies involving such work, should include a patent rights clause in accordance with the policy and guidance of 9-701.

(b) Any construction or architect-engineer contract which calls for or can be expected to involve only standard types of construction to be built by previously developed equipment, methods, and processes shall not include a patent rights clause. The term "standard types of construction" as used herein means construction in which the distinctive features, if any, in all likelihood will amount to no more than:

- (i) variations in size, shape or capacity of otherwise structurally orthodox and conventionally acting single structural members or multi-member structural groupings; or
- (ii) purely artistic or esthetic (as distinguished from functionally significant) architectural configurations and designs of both structural and nonstructural members or groupings, which may or may not be sufficiently novel or meritorious to qualify for protection under the design patent or copyright laws.

Rights of the Government in and to any such distinctive design or copyright features, as distinguished from inventions of a mechanical or functional nature resulting from an architect-engineer contract or from a contract for construction involving architect-engineer services are provided for in the clause in 7-607.7(b) or in 7-603.42(a)(2) entitled "Drawings and Other Data to Become Property of Government."

(c) Construction and architect-engineer contracts which require the development of novel structures, machines, products, equipment (including construction equipment), materials or processes shall include the clause in 7-603.42(a)(2) or 7-607.7(b) in addition to the appropriate "Patent Rights" clause prescribed by Section IX.

18-909 Patent Royalties. The provisions of 9-110, 9-111, and 9-112 are applicable to contracts for construction or construction supplies.

18-910 Acquisition and Use of Plans, Specifications and Drawings.

18-910.1 Architectural Designs and Data Clauses for Architect-Engineer or Construction Contracts.

(a) Plans and Specifications and As-Built Drawings.

(1) Except as provided in (2) below, insert the "Government Rights (Unlimited)" clause in 7-607.7(a) in contracts calling for architect-engineer services or in 7-603.42(a)(1) in contracts for construction involving architect-engineer services.

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PROCUREMENT MANAGEMENT REPORTING SYSTEM

21-112 Item 6, Contractor Identification. Enter the complete name and office address (street, city, and state) of the concern or division of the concern involved. If the contractor is a division, enter first the name of the parent company, and then the name of the division, followed by the address of the division. For example:

Company Name: XYZ Company
Division Name (if any): Flight Propulsion Division
Number and Street: 1 Smith Road
City and State: Jonesville, Ohio
Zip Code

Enter in the Item 6 code space, the first six digits of the contractor code as shown in the Department of Defense Procurement Coding Manual, Volume II. If the contractor is not listed in the Manual, no code entry shall be made by the purchasing office. For contracts placed with the Canadian Commercial Corporation, enter "Canadian Commercial Corporation" after "Company Name" and enter the name of the concern performing under the contract after "Division Name". The address shall be that of the performing concern. The company code shall be that of the Canadian Commercial Corporation. For contracts placed with the U.S. Small Business Administration under the Small Business Act, see 21-102(e).

21-112.1 Item 6A, DUNS CONTRACTOR ESTABLISHMENT NUMBER.

Enter the nine-position number assigned by Dun and Bradstreet, Inc., that identifies the contractor establishment receiving the award as shown in Item 6. This DUNS Contractor Establishment Number should be for the division or plant identified. For contracts placed with the Canadian Commercial Corporation, enter "20-889-1788" in Item 6A code. The DUNS Contractor Establishment Number is available from one of the following sources:

- (a) The offeror's response to the solicitation;
- (b) If not provided with the offer, the successful offeror shall be contacted and requested to supply his applicable nine-digit number;
- (c) If not provided by the successful offeror, the Federal Procurement Data Center (FPDC) DUNS Contractor Identification File, Alphabetical Listing shall be consulted. (This listing should contain all successful offerors receiving Federal prime contract awards over \$10,000 since October 1, 1978); or
- (d) If this listing has no entry for the establishment, the applicable nine-digit number shall be obtained by contacting a Dun and Bradstreet, Inc., representative at the FPDC via commercial telephone (215) 776-4388. All requests/requestors should provide the following information:

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- (i) Name of requesting contract office;
- (ii) Contracting office location (city/town; state/country) and commercial telephone number (including area code);
- (iii) Name of individual making the request;
- (iv) The total number of requests, if more than one; and
- (v) Contractor establishment name, street address (and/or P.O. Box), city/town, and state/country as displayed in Item 6.

(e) For foreign contractors other than the Canadian Commercial Corporation, the procedures in (c) and (d) above apply.

(f) If a DUNS number is still not available after all of the above methods are used, the report shall be submitted within the time limits required by 21-103(b) with Item 6A left blank.

21-113 Item 7, Principal Place of Performance.

(a) Enter the actual location (military installation; e.g., Fort Knox, Kentucky, or the city and state, or foreign country) of the plant or place of business where the items will be produced or supplied or where the service will be performed. Principal place of performance, in general, refers to the prime contractor's final assembly point of a manufactured article, construction site, or place where a service is performed for the Government. If the location is the same as for Item 6, enter in the word "Same". Do not leave Item 7 blank. Also enter in the coding blocks, the military installation or city and state or foreign country codes shown for the contractor in the Department of Defense Procurement Coding Manual, Volume II. If the contractor's name is listed in the Manual, but for a different location than the one in Item 7, no entry shall be made in the code blocks.

(b) Regular dealers ship from stock, in which case the place of performance is the regular dealer's location. Regular dealers also ship from subcontractors who produce the items, in which case the place of performance is the subcontractor's location.

(c) If more than one location is involved, show the location involving the largest dollar amount of procurement. Do not show more than one location in Item 7. Report other locations on the reverse side or on an attached sheet.

(d) For construction contracts, report the actual site of construction.

(e) For architect/engineering contracts, report the planned site of the construction.

(f) In cases where the places of performance will be varied or unknown, enter the home office location of the contractor.

(g) Where labor surplus area set-aside preference is given, the principal place of performance shall be the city and state of the area which determined the preference.

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32 CFR Parts 1-39**[DAC 76-30]****Defense Acquisition Regulation****AGENCY:** Department of Defense.**ACTION:** Final rule.

SUMMARY: This document publishes changes to the Defense Acquisition Regulation contained in the Code of Federal Regulations. The changes are the same as those in Defense Acquisition Circular 76-30. Some of the changes include: Updated listing of OFCCP Regional Offices (information item); subcontract reporting; certification of handicapped organizations; Indirect Cost Monitoring Office; implementation of Public Law 95-250, the Redwood National Park Expansion Act; specifications, plans and drawings (revision letters of drawings); improvement in use of specifications and standards in materiel acquisition; contact administration functions; imprest fund limitations; increase in dollar threshold for negotiation of advance agreements for IR&D and B&P; waiver of four-step source selection on major systems acquisition; disclosure of magnitude of construction contracts; orders for services from General Services Administration sources; mandatory Federal Supply Schedules; numerically controlled machine data; and editorial changes.

EFFECTIVE DATE: September 30, 1981.

FOR FURTHER INFORMATION CONTACT: J. Brannan, Director, Defense Acquisition Regulatory Council, Room 3D1028, Pentagon, Washington, D.C. 20301, Telephone 202-697-7266.

SUPPLEMENTARY INFORMATION:**Background**

The Defense Acquisition Regulation (DAR) is codified in Title 32, Parts 1-39, Volumes I, II, and III, of the Code of Federal Regulations. The July 1, 1979 revision, as supplemented on July 1, 1980, is the most recent edition of that title. It reflects amendments to the 1976 edition made by Circulars 76-1 through 76-23.

The Department of Defense announced the promulgation of the 1979 CFR edition in the Federal Register of December 31, 1979 (44 FR 77158), and also announced at that time that subsequent amendments to the Regulations would be published in the Federal Register.

Defense Acquisition Circular 76-30

This document contains amendments to the Defense Acquisition Regulation in

the form of replacement pages which were included in DAC 76-30, issued September 30, 1981. The following is a summary of the amendments:

List of OFCCP Regional Offices. A current list of OFCCP Regional Offices, referenced in Equal Employment coverage under DAR 12-807.2(a)(1)a, is provided with the replacement pages, as an information item. The list supersedes the list published as Item I, DAC #76-20, 17 September 1979.

Subcontract Reporting. The 1979 Department of Defense Appropriation Act deleted general provision section 836 contained in the 1978 DoD Appropriation Act which required DoD to collect and report to the Congress the distribution of DoD subcontract work by states. DoD has requested deletion of this provision, pointing out to the Congress that it was quite costly to both the prime contractors and to the Government to collect, process, evaluate, and disseminate this information. Therefore, DAR coverage is canceled.

Certification of Handicapped Organizations. Public Law 96-302 authorizes certain nonprofit organizations; i.e., National Industries for the Blind and National Industries for the Severely Handicapped (NIB/NISH), to bid on procurements set aside for small business firms during Fiscal Years 1981, 1982, and 1983. Similar provisions were contained in DAC #76-15, but applied only to FY 1978. A new solicitation provision, Certification of Handicapped Organizations, is published, together with references in other Sections of the DAR. Additionally, procurement offices are required to report on the contracts which are awarded to NIB/NISH organizations for the period during which these organizations enjoy this special status. Therefore, a new reporting requirement is established at DAR 21-400. (Note: The reporting requirement is suspended until a Reports Control Symbol Number is published in a forthcoming DAC.)

Indirect Cost Monitoring Office (ICMO). A revised charter for the Indirect Cost Monitoring Office has been approved to include certain responsibilities for independent research and development/bid and proposal (IR&D/B&P) costs and for advance agreements for such costs. As a result, the Charter for the Indirect Cost Monitoring Office (ICMO), published for information purposes on pages 15 and 16 of DAC #76-16, is no longer current and is deleted. The revised charter will not be published in the DAC. DAR Section III, Part 14, Indirect Cost Monitoring Office, is added and significantly revises the

limited coverage previously contained in DAR 3-705(e).

Implementation of Public Law 95-250, the Redwood National Park Expansion Act. DAR coverage is added to 1-332 and 7-104.36 to implement section 103(e) of Public Law 95-250, the Redwood National Park Expansion Act. The material requires that consideration for certain employment positions be afforded to individuals displaced from employment or adversely affected as a result of expansion of the Redwood National Park.

Specifications, Plans, and Drawings (Revision Letters of Drawings). DAR 1-1201(a) is revised to permit the use of drawing revision letters in lieu of revision dates when the letters provide the same degree of identification as the dates.

Improvement in Use of Specifications and Standards in Materiel Acquisition. DAR 1-1202 is revised to add the words "and standards" to the words "Federal Specifications" and "Military Specifications." DAR 1-1202(c)(v)(A) is revised to clarify the mandatory use of Federal and Military Standardization documents. Additionally, DAR 4-106.1(a) is revised to encourage alternate proposals to achieve the desired end product.

Contract Administration Functions. DAR 1-406(c)(1x) and (1xi) are revised to clarify contract administration functions with respect to authority of the Tri-Service Contracting Officer for determinations related to CAS 420 in negotiation of advance agreements pursuant to 15-205.3 and 15-205.35.

Imprest Fund Limitations. DAR 3-607.3(a)(ii) and 3-607.3(b)(i) are changed to extend the time for delivery of supplies or services from 30 days to 60 days, and to raise the limit in the use of imprest funds for line haul or inter-city transportation charges from \$25 to \$75, respectively.

Increase in Dollar Threshold for Negotiations of Advance Agreements for IR&D and B&P. DAR 15-205.3(d)(2)(A)(i) and 15-205.35(d)(1)(A) are revised to raise the threshold for negotiation of advance agreements for IR&D and B&P from \$2 million to \$4 million. In addition, the threshold applicable to individual company divisions, 15-205.3(d)(2)(A)(ii) and 15-205.35(d)(1)(B), is changed from \$250,000 to \$500,000.

Waiver of Four-Step Source Selection on Major Systems Acquisition. DAR 4-107.4 is revised to change the waiver authority from "only the Secretary" to "the Secretary" of the Department involved, as defined in 1-201.15.

Disclosure of Magnitude of Construction Contracts. DAR 18-109 is revised to divide the present range of \$100,000-\$500,000 to ranges of \$100,000-\$250,000 and \$250,000-\$500,000. This change is intended to enable smaller contractors to determine whether or not the project is within their economic capability to construct.

Orders for Services from General Services Administration Sources. DAR 5-207(b) is revised to specify responsibility for inspection and acceptance with respect to orders for certain services from GSA sources. The change also provides that the GSA contracting officer shall be notified when an order is terminated for default.

Mandatory Federal Supply Schedules. DAR 5-102.2 is revised to add an "escape" provision for inclusion in Federal Supply Schedule contracts. The provision will allow for mandatory users of Federal Supply Schedules to purchase from another source without violating the contract, if they find an identical product or service at a delivered price lower than the Schedule price.

Numerically Controlled Machine Data. DAR 13-301, 24-205.3 and Appendices B and C are revised with the intent to improve reutilization of DoD numerically controlled (NC) machine tools by completion of inventory records on NC equipment. DD Form 1342, DoD Property Record, is revised to accommodate the requirement for contractors to provide information on page 2 of the form for all NC machine tools currently in their possession.

Editorial Changes. Changes are provided to correct typographical errors, administrative oversight, or other editorial changes. (Note: Page 7:369-7-705.33, formerly reserved, is deleted; 7-705.34 is deleted; 7-705.35, formerly reserved, is deleted.)

Because the Defense Acquisition Regulation concerns agency

management, public property, and contracts, it is not necessary to issue proposed rules for public comment. Neither is it necessary to delay the effective date until 30 days after the date of publication of these rules, 5 U.S.C. 533 (a) and (d). The amendments became effective on September 30, 1981.

How To Use Replacement Pages

Reproduced at the end of this document are replacement pages from DAC 76-30. The number at the top of the page (for example, 1:73) identifies the page from the Regulation which is being replaced. The number at the bottom of the page is a reference to the last appearing numbered paragraph on that page, or if none shows, on a preceding page. The vertical line in the right margin indicates where the amendment is located.

Adoption of Amendments

Therefore, the July 1, 1979 edition of the Defense Acquisition Regulation contained in 32 CFR Parts 1-39, Volumes I, II, and III, as supplemented on July 1, 1980, is amended in the DAR paragraphs indicated by substitution of the replacement pages listed in the table:

DAR paragraph	Replacement pages
Volume I	
1-332	1:74.
1-340 [reserved]	1:77-A.
1-406	1:83.
1-1201	1:182.
1-1202	1:182, 1:183.
2-201	2:7, 2:9, 2:17.
3-201	3:5.
3-501	3:62, 3:66, 3:70.
3-607.3	3:85.
3-705	3:107, 3:108.
Section III, Part 14 (add)	3:194.
3-1400 (add)	3:194.
3-1401 (add)	3:194, 3:195.
3-1402 (add)	3:195, 3:196.
3-1403 (add)	3:196, 3:197, 3:198.
3-1404 (add)	3:198.
3-1405 (add)	3:199.
3-1406 (add)	3:199.
4-106.1	4:4.
4-107.4	4:8-B.
5-102.1	5:4.

DAR paragraph	Replacement pages
5-207	5:23.
Volume II	
7-104.36 (add)	7:88, 7:89.
7-104.78 [reserved]	7:123.
7-204.52 [reserved]	7:204.
7-204.66 [reserved]	7:205.
7-303.53 [reserved]	7:238.
7-303.68 [reserved]	7:241.
7-403.48 [reserved]	7:263.
7-403.64 [reserved]	7:266.
7-504.12 [reserved]	7:270.
7-603.61 (delete)	7:314-D.
7-603.62 (delete)	7:314-D.
7-606.32 (delete)	7:332.
7-606.33 (delete)	7:332.
7-705.27 [reserved]	7:369.
7-705.33 (delete)	7:369.
7-705.34 (delete)	7:369.
7-705.35 (delete)	7:369.
7-902.45 [reserved]	7:391.
7-1903.47 [reserved]	7:456.
7-1910.35 [reserved]	7:464.
7-2003.91 (add)	7:525-I.
7-2102.11	7:537.
7-2102.12 [reserved]	7:537.
7-2102.13 [reserved]	7:537.
7-2102.14 [reserved]	7:537.
7-2102.15 [reserved]	7:537.
13-301	13:8, 13:9.
15-205.3	15:13, 15:14.
15-205.35	15:37, 15:38, 15:39.

Volume III	
18-109	18:6.
21-125	21:18, 21:19.
Section XXI, Part 4 (add)	21:30.
21-400 (add)	21:30.
21-401 (add)	21:30.
24-205.3	24:16.
B-201	B:6.
B-306.1	B:15.
C-201	C:6.
C-306.1	C:13.
F200.1195	F209, F210.
F200.1342	F211, F212.

M. S. Healy,

OSD Federal Register Liaison Officer,
Washington Headquarters Services,
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ITEM I LIST OF OFCCP REGIONAL OFFICES

The following is the current list of OFCCP Regional Offices referenced in Equal Employment coverage under 12-807.2(a)(1)a. This list supersedes the list published as Item I, DAC #76-20, 17 September 1979.

Region	States	Address	Telephone
I	Maine New Hampshire Massachusetts Connecticut Rhode Island Vermont	OFCCP/ESA - Boston U.S. Department of Labor JFK Fed. Off. Bldg. Room 1612-C Boston MA 02203	(617) 223-1559
II	New York New Jersey Puerto Rico Virgin Islands	OFCCP/ESA - New York U.S. Department of Labor 1515 Broadway Room 3308 New York NY 10036	(212) 944-2936
III	Pennsylvania Maryland Delaware Virginia West Virginia D.C.	OFCCP/ESA - Philadelphia U.S. Department of Labor Gateway Bldg, Rm 15430 3535 Market Street Philadelphia PA 19104	(215) 596-1213
IV	North Carolina South Carolina Kentucky Tennessee Mississippi Alabama Georgia Florida	OFCCP/ESA - Atlanta U.S. Department of Labor 1371 Peachtree Street, N.E. Room 111 Atlanta GA 30367	(404) 881-4211
V	Ohio Indiana Michigan Illinois Wisconsin Minnesota	OFCCP/ESA - Chicago U.S. Department of Labor 230 South Dearborn St. Room 3952, New Federal Bldg. Chicago IL 60604	(312) 353-1929

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Region	States	Address	Telephone
VI	Louisiana Arkansas Oklahoma Texas New Mexico	OFCCP/ESA - Dallas U.S. Department of Labor 555 Griffin Square Bldg. Room 505 Dallas TX 75202	(214) 767-2804
VII	Missouri Iowa Nebraska Kansas	OFCCP/ESA - Kansas City U.S. Department of Labor Fed. Off. Bldg., Rm 2000 911 Walnut Street Kansas City MO 64106	(816) 374-2695
VIII	North Dakota South Dakota Montana Wyoming Colorado	OFCCP/ESA - Denver U.S. Department of Labor Fed. Off. Bldg., Rm 1412 1961 Stout Street Denver CO 80294	(303) 837-5011
IX	California Nevada Arizona Hawaii Guam	OFCCP/ESA - San Francisco U.S. Department of Labor 450 Golden Gate Avenue Room 11435 San Francisco CA 94102	(415) 556-4904
X	Alaska Idaho Oregon Washington	OFCCP/ESA - Seattle U.S. Department of Labor Fed. Off. Bldg., Rm 3088 909 First Avenue Seattle WA 98174	(206) 442-4508

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(3) The management data requirements in a contract should be formally approved, should not exceed the needs of the planned program management approach, and should be specifically identified on an individual item basis.

(g) Instructions for the preparation, review and use of DD Form 1660 are in 16-827.

(h) When compliance with the Cost/Schedule Control Systems Criteria in accordance with DODI 7000.2 Performance Measurement for Selected Acquisitions is required, the solicitation and resulting contract shall include the provisions in 7-2003.43 and 7-104.87 respectively.

1-332 Employment Consideration, Redwood National Park Expansion Act. Section 103(e) of Public Law 95-250, the Redwood National Park Expansion Act, requires that employment consideration for certain jobs be afforded to individuals displaced from their employment or adversely affected as a result of the expansion of the Redwood National Park. The law applies to any contract or subcontract thereunder that (i) requires employment of individuals primarily in the northern California counties of Humboldt, Del Norte, Trinity, Siskiyou and Mendocino and (ii) involves the conduct of harvesting and related activities or replanting and land rehabilitation or the conduct of wood processing and related activities or the conduct of highway construction and related activities. New contracts subject to (i) and (ii) above which are awarded prior to September 30, 1984, shall include the clause at 7-104.36. In addition, existing contracts which are subject to the above will be amended to include the clause where it is practicable to do so. Questions concerning the proper administration of this clause may be directed to the following offices:

Redwood Employee Protection Program
U. S. Department of Labor
Room N 5639

200 Constitution Avenue, N.W.
Washington, D.C. 20210
Telephone: (202) 523-6495

California Employment Development Department
409 K Street
Eureka, CA 95501
Telephone: (707) 445-0851

California Employment Development Department
485 I Street
Crescent City, CA 95531
Telephone: (707) 496-2111

California Employment Development Department
1325 Pine Street
Redding, CA 96001
Telephone: (916) 246-6211

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(6) *Catalog or Market Price Items.* Contractors generally carry products liability insurance or similar insurance coverage or maintain a reserve for self-insurance covering liability arising out of defective items. Accordingly, a "Limitation of Liability" clause should not be used for items being priced as catalog or market priced items (see 3-807) unless there is an appropriate reduction in the catalog or market price to reflect reduced contractor liability.

(7) *Technical Data.* For Department of Defense policy on contractor liability to the Government caused by nonconforming technical data, see 1-324.6.

(8) *Foreign Military Sales Contracts.* In procurements for foreign military sales, see 6-1308.

1-331 Management Systems.

(a) A management system is a documented method for assisting managers in defining or stating policy, objectives or requirements; assigning responsibility; controlling utilization of resources; periodically measuring performance; comparing that performance against stated objectives and requirements; and taking appropriate action. A management system may encompass part or all of the foregoing areas and will require the generation, preparation, maintenance, and/or dissemination of information by a contractor.

(b) The responsibility for determining management systems requirements and for completion of the DD Form 1660, Management Systems Summary List, is vested in the project officer, program manager, commodity manager, or other requiring office. Procedures for review of the DD Form 1660 by the contracting officer are specified in 16-827.3.

(c) Although the judicious application of management systems on all contracts regardless of size is important, use of the DD Form 1660 is only required on those contracts exceeding \$1,000,000.

(d) Pursuant to the above, appropriate management systems shall be contractually applied only if they are:

- (i) required by a standard ASPR clause;
- (ii) listed in DoD Directive 5000.19-L, Volume II, Acquisition Management Systems and Data Requirements Control List (AMSDL); or
- (iii) approved for a specific application by the Secretary of the Department concerned or his designee.

The proposed prescribing document for each management system must have been cleared as required by OMB Circular A-40.

(e) Approved management systems, except those specified in this Regulation, shall be listed on a DD Form 1660 (see F-200.1660). An approved DD Form 1660 and the contract clause titled "Management Systems Requirements" (see 7-104.50) shall be included in all contracts when applicable.

(f) The DD Form 1660 procedures help to achieve the following objectives with respect to the management of programs and the acquisition of management data:

- (1) Management systems selected for use in managing the contract / program should be limited to those that are essential to the fulfillment of the responsibilities of the Department of Defense and contractor.
- (2) More than one management system satisfying the same requirement should not be specified on a single contract.

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party. The rule stated in 1-336.3 also applies to the use of underlying air carriers by international air freight forwarders engaged in such foreign air transportation.

(b) In order that bills submitted by international air freight forwarders engaged in international air transportation may be paid upon presentation, such carriers shall submit with their bills a copy of the airway bill or manifest showing the underlying air carriers utilized with such justification certifications as they may have for the use of underlying non-certificated air carriers. Use of the prescribed certification satisfies the justification requirement.

1-337 Should Cost. Should cost is a concept of contract pricing that employs an integrated team of Government procurement, contract administration, audit and engineering representatives to conduct a coordinated, in-depth cost analysis at the contractor's plant. The purpose is (i) to identify uneconomical or inefficient practices in the contractor's management and operations and to quantify the findings in terms of their impact on cost, and (ii) to develop a realistic price objective which reflects reasonably achievable economies and efficiencies. A should cost review will be made in connection with the procurement of a system or item which will require a DSARC approval, unless the contracting officer makes written determination that the potential savings to be realized do not justify the expense of such a should cost review. Such determination shall be included in the Procurement Plan (see 1-2100). Should cost reviews should also be considered in procurements when: there are future year production requirements for substantial quantities of like items; there has already been some initial production; the competitive forces are insufficient to ensure economical and efficient performance (e.g., sole source); the specification is comparatively definitive and not likely to be changed; and the present and potential value of the work to be performed is substantial.

1-338 Design to Cost.

(a) Cost is a contract parameter equal in importance with technical, delivery and performance requirements throughout the design, development, production and operation of defense systems, subsystems, components and equipments. Design to cost is a concept which recognizes this principle by requiring the establishment of cost elements as management goals to achieve the best balance between life cycle cost, acceptable performance, and schedule. Cost, under this concept, is a design parameter during design and development, and a management discipline throughout the acquisition and operation of the system or equipment. Policies and procedures for the application of design to cost are contained in DODD 5000.28.

(b) The principles of design to cost shall be applied in all procurements for Major Defense Systems (DODD 5000.1) unless exempted by the Secretary of Defense. Design to cost principles shall also be applied to the acquisition of systems, subsystems, and components below the thresholds for Major Defense Systems, to the extent prescribed in DODD 5000.28, and in accordance with Departmental procedures.

(c) Design to cost considerations are essential elements of sound procurement planning under 1-2100. Such planning shall include the establishment of design to cost objectives and goals and determinations of how they are to be applied, tracked, and enforced. To be effective, the design to cost approach should

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be planned at the inception of the program, should encompass all phases of the program, and should be kept current by regular reviews both at appropriate intervals and at program milestones.

(d) In solicitations and contracts including design to cost principles, consideration should be given to prescribing and tailoring the required cost, technical and schedule parameters to the particular program, and to providing the contractor with flexibility to identify unnecessary or marginally cost effective technical and schedule features susceptible to trade-offs (see DODD 4105.62). This is to facilitate product development at the lowest life cycle cost consistent with mandatory schedule and performance requirements.

(e) For the relationship of design to cost to value engineering, see 1-1707.

1-339 Energy Conservation.

(a) The Energy Policy and Conservation Act requires that Federal procurement policies governing requirements determinations and source selection decisions provide for consideration of (i) conservation of energy and (ii) the relative energy efficiency of alternative goods or services capable of satisfying the Government's needs.

(b) The energy conservation and energy efficiency criteria shall be applied in the determination of requirements and source selection decisions whenever the application of such criteria would be meaningful, practical, and consistent with agency programs and operational needs. Under this policy, energy conservation and efficiency criteria shall be considered for application along with price and other relevant factors in the preparation of solicitations, the evaluation of offers, and the selection of bids and proposals for award.

(c) With respect to the procurement of consumer products, executive agencies shall take cognizance of energy use / efficiency labels and prescribed energy efficiency standards as they become available.

1-340 Reserved.

1-341 Reserved.

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- (lxvi) issue contract modifications requiring the contractor to provide packing, crating and handling services on excess Government property. When the ACO determines it to be in the Government's best interests, he may secure such services from other than the contractor in possession of the property;
- (lxvii) approve contractor acquisition/fabrication of special test equipment as provided in paragraph (b) of the clause in 7-104.26;
- (lxviii) negotiate and execute contractual documents for settlement of cancellation charges under multi-year contracts;
- (lxix) evaluate and monitor contractor's procedures for complying with the Restrictive Markings on Technical Data clause in 7-104.9(p);
- (lxx) monitor the contractor's costs as set forth in 20-1000;
- (lxxi) issue Notice of Intent to Disallow or Not Recognize Costs (see 15-206);
- (lxxii) negotiate forward pricing rate agreements;
- (lxxiii) analyze quarterly limitation on payments statements and recover overpayments from the contractor;
- (lxxiv) when authorized by the contracting office, negotiate changes to interim billing prices;
- (lxxv) when authorized by the contracting office, negotiate and definitize adjustments to contract prices resulting from exercise of an Economic Price Adjustment clause; and
- (lxxvi) with the exception of changes in accounting and appropriation data which must be issued by the procuring activity, issue administrative changes (DAR 26-101(a)(i)).

Contracting functions not designated as contract administration functions shall remain the responsibility of the contracting office.

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the ISR and ISM (See Appendix C, Industrial Security Regulation, DoD 5220.22-R, for partial listing of primary responsibilities (also see 1-320).);

- (lii) make payments on assigned contracts (but see 20-706);
- (liii) assign and perform supporting administration;
- (liv) assure timely submission of required reports;
- (lv) will advise and assist defense contractors regarding their priorities and allocations responsibilities and assist defense purchasing activities in processing requests for special assistance and for priority ratings for privately-owned capital equipment;
- (lvi) process and execute novation and change of name agreements in accordance with Section XXVI, Part 4;
- (lvii) when authorized by the purchasing office, negotiate or negotiate and execute supplemental agreements accelerating or decelerating contract delivery schedules;
- (lviii) when authorized by the purchasing office, negotiate or negotiate and execute supplemental agreements providing for the de-obligation of unexpended dollar balances considered excess to known contract requirements;
- (lix) determine adequacy of prime contractor's Disclosure Statements;
- (lx) determine whether prime contractor's Disclosure Statements are in compliance with Section XV and Cost Accounting Standards; except that the Tri-Service Contracting Officer shall have full authority for determinations related to CAS 420 for those contractors with which the Tri-Service Contracting Officer negotiates advance agreements pursuant to 15-205.3 and 15-205.35.
- (lxi) determine contractor compliance with Cost Accounting Standards and Disclosure Statements, if applicable; except that the Tri-Service Contracting Officer shall have full authority for determinations related to CAS 420 for those contractors with which the Tri-Service Contracting Officer negotiates advance agreements pursuant to 15-205.3 and 15-205.35.
- (lxii) negotiate price adjustments and execute supplemental agreements pursuant to the Cost Accounting Standards clauses in 7-104.83;
- (lxiii) perform post award surveillance of contractor progress toward demonstration of Cost/Schedule Control Systems to meet the Cost/Schedule Control Systems Criteria (see 7-104.87), provide assistance in the review and acceptance of contractors' Cost/Schedule Control Systems, and perform post acceptance surveillance to insure continuing operation of contractors' accepted systems;
- (lxiv) when authorized by the purchasing office, issue amended shipping instructions and, when necessary, negotiate and execute supplemental agreements incorporating contractor proposals resulting from the amended shipping instructions;
- (lxv) when authorized by the purchasing office, issue change orders and negotiate and execute resultant supplemental agreements under contracts for ship construction, conversion and repair;

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waiver of product qualification requirements. Where waivers have been granted, solicitations shall specifically indicate that the qualification requirement is inapplicable. Such information shall also be included in any Synopsis of the procurement.

1-1109 Inadequate Competition.

(a) *Pre-Solicitation.* In connection with procurement of a qualified product as an end item, the contracting officer shall review the applicable Qualified Products List prior to solicitation to ascertain whether the number of sources is adequate for competition. If, in the opinion of the contracting officer, the number of sources is inadequate, action shall be taken as prescribed below unless he already has the necessary information.

(1) The contracting officer shall request the activity that prepared the specification to provide information concerning the status of tests on additional products, including the anticipated dates when such tests will be completed so that opening of bids or submission of proposals may be so scheduled as to allow completion of the tests.

(2) If no tests are being conducted or contemplated, the contracting officer shall further request the preparing activity to advise whether a means of quality assurance other than qualification approval may be substituted in the procurement.

(b) *Post-Solicitation.* The contracting officer shall advise the specification preparing activity of the name and address of any concern which requested copies of the solicitation but was not included on the Qualified Products List. The specification preparing activity may then attempt to interest such concerns in becoming qualified.

1-1110 *Reporting Nonconformance With Specification Requirements.* If a supplier on the qualified products list repeatedly submits products not meeting specification requirements for inspection, resubmits products previously rejected without correcting the defects, or is otherwise unsatisfactory in the performance of contracts, he shall be reported to the activity that prepared the specification for a determination as to whether the supplier's product shall be removed from the list.

1-1111 *Misuse of Qualified Products List Information.* Misuse of qualified products list information, such as for advertising or publicity purposes contrary to that permitted in 1-1104(v), shall be reported promptly to the preparing activity.

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Part 12—Specifications, Plans, and Drawings

1-1201 General.

(a) Plans, drawings, specifications, standards, or purchase descriptions for acquisitions shall state only the actual minimum needs of the Government and describe the supplies and services in a manner which will encourage maximum competition and eliminate, insofar as possible, any restrictive features which might limit acceptable offers to one supplier's product, or the products of a relatively few suppliers. Items to be acquired shall be described by reference to the applicable specifications or by a description containing the necessary requirements.

Referenced specifications and standards shall be tailored in their application. Tailoring consists of the exclusion of those sections, paragraphs or sentences of individual specifications and standards not required for a specific procurement so that each document applied states only the minimum requirements of the Government. Such tailoring need not be made a part of the basic specification or standard but will vary with each application dependent upon the nature of the procurement. When specifications are cited, they, and all amendments or revisions thereof applicable to the procurement, shall be identified, including the respective approval dates of the applicable issue, revision, amendment, or notices. When specifications, standards, or other documents are referenced in cited specifications, their effective issue or revision shall be that listed in the Department of Defense Index of Specifications and Standards (DoDISS) and supplements thereto, unless (i) specific issues are set forth therefor in the cited Specifications or (ii) different issues than those specified in the cited specifications are set forth in the solicitation. The date of the applicable DoDISS and supplements thereto shall be set forth in the solicitation. Copies of all specifications, standards, and other documents citing issue dates other than those shown for the documents by the specified DoDISS must be furnished with the solicitations as prescribed by 1-1203. The requirement to identify the DoDISS, specifications, standards, and other documents by issue refers to the specific calendar date of approval printed on the document or the latest applicable amendment or revision notice. Revision letters of drawings may be used in lieu of revision dates when the letters provide the same degree of identification as the dates. General identification such as "the issue in effect on the date of the solicitation," or similar language, shall not be used. Drawings and data furnished with solicitations shall be clear and legible.

(b) Many specifications cover several grades or types, and provide for several options in methods of inspection, etc. When such specifications are used, the solicitation shall state specifically the grade, type, or method of inspection, etc., on which bids or offers are to be based.

1-1202 Mandatory Specifications and Standards.

(a) Except as provided in (b) below, the following specifications and standards are mandatory for use by the Department of Defense in the acquisition of supplies and services covered by such specifications and standards:

- (i) Federal specifications and standards, unless determined by the Department of Defense to be inapplicable for its use;
- (ii) Military specifications and standards approved by the Department of Defense for its use; and

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(iii) Industry documents adopted by the Department of Defense as listed in the Department of Defense Index of Specifications and Standards.

(b) Federal and Military specifications and standards need not be used for the following unless required by Departmental instructions:

- (i) purchase of items for authorized resale except military clothing;
- (ii) purchases for construction when nationally-recognized industry and technical source specifications and standards are available (see 18-107); or
- (iii) purchase of items in an amount not to exceed \$10,000 (multiple small purchases of less than \$10,000 of the same item shall not be made for the purpose of avoiding the use of Federal or Military specifications).

(c) Unless required by Departmental instructions, Federal and Military specifications and standards need not be prepared for use in the below listed contracting actions; however, existing Federal and Military specifications and standards, and adopted industry documents to the extent that they are applicable to the item or service required, shall be used for:

- (i) purchase incident to research and development;
- (ii) purchase of items for test or evaluation;
- (iii) purchase of laboratory test equipment for use by Government laboratories;
- (iv) purchase of one-time procurement items; or
- (v) purchase of items—

(A) for which it is impracticable or uneconomical to prepare a specification or standard (repetitive use of a purchase description containing the essential characteristics of a specification, except for acquisition of unique components or replacement parts, will be construed as evidence of improper use of this exception); or

(B) when the purchase involves an item which is the product of private development and the provisions of 1-304 are complied with.

(d) If it is determined, in accordance with the procedures established under the Defense Standardization Program by the Under Secretary of Defense for Research and Engineering, that the specifications and standards listed in (a) above do not meet the particular or essential needs of a bureau, service, or command, then (except as provided in (b) and (c) above) applicable amendments, revisions or new specifications or standards (interim Federal or limited coordination Military) shall be immediately prepared and used.

(e) When it is necessary to make interim changes or corrections to specifications or standards to effect an acquisition, the authorizing activity shall take immediate action to advise the specification or standard preparing activity of the changes or corrections and the reasons giving rise thereto.

1-1203 Availability of Specifications, Standards, Plans and Drawings.

1-1203.1 *General.* Each solicitation shall be accompanied with the applicable specifications, standards, plans, drawings, descriptions and any other pertinent documents, or shall state where such documents may be obtained or examined, in

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accordance with this paragraph. In the case of specifications and drawings available from the purchasing office, the solicitation should identify as precisely as possible the responsible individual's name and title, address and room number, office symbol, and telephone number, for purposes of facilitating and expediting requirements for documents or for examination of such documents.

1-1203.2 Specifications and Standards Listed in the DODISS and Data Item Description Listed in DoD Directive 5000.19-L, Volume II.

(a) A Department of Defense Single Stock Point (DODSSP) has been established at the Naval Publications and Forms Center in Philadelphia for unclassified Federal, Military and other specifications and standards (including commercial) listed in the Department of Defense Index of Specifications and Standards (DODISS) and data item descriptions listed in the Department of Defense Acquisition Management Systems and Data Requirements Control List (AMSDL) DODD 5000.19-L, Volume II. Except as provided in (b) below, such specifications, standards, and descriptions normally will not be furnished with the solicitation; but the solicitation shall contain the provision in 7-2003.8.

(b) Specifications and Standards listed in the DODISS (excluding commercial) and Data Items listed in the AMSDL may be furnished with the solicitation when:

- (i) the nature and complexity of the item are such that furnishing with the solicitation is necessary to enable prospective contractors to make a competent initial evaluation of the solicitation;
- (ii) in the judgment of the contracting officer, it would be impracticable for prospective contractors to obtain the specifications, standards and descriptions from the DODSSP in time to respond to the solicitation; e.g., urgency of the procurement, isolated geographical area, or other cogent reason; or
- (iii) a prospective contractor who has not previously bid on the item requests a copy of the solicitation.

(c) Purchasing activities may obtain copies of the DODISS and the AMSDL, as well as all unclassified specifications and standards (including commercial) listed in the DODISS, and data item descriptions listed in the AMSDL by sending DD Form 1425 to the DODSSP.

1-1203.3 *Specifications and Standards Not Listed in DODISS, Data Item Descriptions Not Listed in DoD Directive 5000.19-L, Volume II, and Plans, Drawings, and Other Pertinent Documents.* Specifications and standards not listed in the DODISS, and plans, drawings, and other pertinent documents (including new or revised Federal or Military specifications and standards not yet listed in DODISS) and data item descriptions not listed in DoD Directive 5000.19-L, Volume II, normally shall be furnished with the solicitation. When this is not feasible because of the bulk of the documents, the limited number of copies available, or for some other good reason, the solicitation shall include a provision substantially similar to that contained in 7-2003.9(a) or (b) as appropriate.

1-1204 Packaging and Marking Policies.

(a) All Department of Defense supplies, materials, and equipment shall be afforded the degree of packaging (preservation and packing) required to prevent deterioration and damages due to the hazards of shipment, handling and storage.

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(b) Appropriate packaging and marking requirements shall be included in procurement documents.

(1) When a commodity specification is used for procurement, the required military packaging level or commercial packaging reference contained in that specification shall also be stated in the procurement document.

(2) When a commodity specification is not used, the procurement document shall include or reference either a process specification or standard; a detailed packaging requirement for each applicable military packaging level; or a requirement for commercial packaging.

(3) The exception in 1-1202(b)(iii) to the use of mandatory specifications extends to packaging specifications.

(c) Marking requirements.

(1) MIL-STD-129, "Marking for Shipment and Storage," together with any appropriate additional marking requirements, shall be specified in procurement documents for the marking of military packaged items.

(2) MIL-STD-NO. 1188, "Commercial Packaging of Supplies and Equipment," together with any appropriate additional marking requirements, shall be specified in procurement documents for the marking of commercially packaged items.

(3) For items having shelf-life limitations, marking requirements shall include:

- (i) dating or other maximum allowable age or shelf-life limitations as specified by the contractor or manufacturer; and
- (ii) any temperature, humidity, or other required storage conditions.

(d) Item and destination information furnished by the requiring activity shall be used by the contracting officer in determining appropriate military packaging levels or commercial packaging references and marking requirements. Maximum practicable use shall be made of packaging specialists in the development and establishment of individual procurement packaging and marking requirements and the evaluation of contractors' estimates or charges for such services.

(e) Reports and recommendations furnished by the contract administration office on DD Form 2025, "Packaging Change Recommendation/Approval" shall be acted upon promptly by the procuring contracting officer as provided for by the form.

1-1205 Offshore Procurement. Contracting officers accomplishing offshore procurement are authorized to use, where necessary, such specifications, standards, and purchase descriptions of foreign governments, or groups thereof, foreign trade associations, or purchase descriptions developed locally which will be readily understood by foreign vendors, provided, adequate measures are taken to insure satisfactory and acceptable products, including standard and interchangeable items, where required.

1-1206 Purchase Descriptions.**1-1206.1 General.**

(a) A purchase description may be used in lieu of a specification when authorized by 1-1202(b) or (c) and, subject to the restriction on repetitive use in 1-1202(c)(v), where no applicable specification exists. An adequate purchase

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description is an aid to competition and, in the absence of competition, aids in determining the reasonableness of price. A purchase description should set forth the essential physical and functional characteristics of the materials or services required. As many of the following characteristics as are necessary to express the minimum requirements of the Government should be utilized in preparing purchase descriptions:

- (i) common nomenclature;
- (ii) kind of material, i.e., type, grade, alternatives, etc.;
- (iii) electrical data, if any;
- (iv) dimensions, size or capacity;
- (v) principles of operation;
- (vi) restrictive environmental conditions;
- (vii) intended use, including—
 - (A) location within an assembly, and
 - (B) essential operating conditions;
- (viii) equipment with which the item is to be used;
- (ix) other pertinent information that further describes the item, material or service required.

Purchase descriptions shall not be written so as to specify a product, or a particular feature of a product, peculiar to one manufacturer and thereby preclude consideration of a product manufactured by another company, unless it is determined that the particular feature is essential to the Government's requirements, and that similar products of other companies lacking the particular feature would not meet the minimum requirements for the item. Generally, the minimum acceptable purchase description is the identification of a requirement by use of brand name followed by the words "or equal." This technique should be used only when an adequate specification or more detailed description cannot feasibly be made available by means other than reverse engineering (see 1-304) in time for the procurement under consideration. Purchase descriptions of services to be procured should outline to the greatest degree practicable the specific services the contractor is expected to perform.

(b) The words "or equal" should not be added when it has been determined in accordance with (a) above that only a particular product meets the essential requirements of the Government, as, for example, (i) where the required supplies can be obtained only from one source; (ii) procurements negotiated under 3-207 for specified medicines or medical supplies where it has been determined that only a particular brand name product will meet the essential requirements of the Government; or (iii) procurements negotiated under 3-208 for supplies for resale where it has been determined by a selling activity that only a particular brand name product will meet the desires or preferences of its patrons.

1-1206.2 Brand Name or Equal Purchase Descriptions.

(a) Purchase descriptions which contain references to one or more brand name products followed by the words "or equal" may be used only when authorized by 1-1202(b) or (c) and in accordance with 1-1206.3 and 1-1206.4. The term "brand name product" means a commercial product described by brand name and make or model number or other appropriate nomenclature by which such product is offered for sale to the public by the particular manufacturer,

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(xviii) reserved;

- (xix) when the provisions of the Buy American Act or the Balance of Payments Program apply, include the clauses in 7-103.10, 7-104.3, 7-104.32, and 7-104.106, as prescribed by 6-104.5 and 6-803.1(e).

Part II—General Provisions

SECTION I - General Provisions.

- (i) such general contract provisions (contract clauses) as required by law and by this Regulation;
- (ii) such additional general provisions as may be applicable to the acquisition; and
- (iii) such alterations to contract provisions as are appropriate.

Part III—List of Documents, Exhibits, and Other Attachments

SECTION J - List of Documents, Exhibits, and Other Attachments.

- (i) Here list all of the documents, exhibits, and other attachments that make up the invitation-for-bids package; give form number, name, date, and number of pages for each document; give type and identifier (for example, "Exhibit A"), name, and number of pages for each exhibit, appendix, or other attachment (for example, work frequency schedules, work statements, specifications, special requirements, or other documents too lengthy to be conveniently written into the invitation proper).

Part IV—General Instructions

SECTION K - Representations, Certifications, and Other Statements of Bidder.

- (i) Standard Form 33, Part 2 (Representations and Certifications);
- (ii) when considered necessary by the contracting officer to prevent practices prejudicial to fair and open competition, such as improper kinds of multiple bidding, a requirement that each bidder submit with his bid the provision in 7-2003.12 concerning his affiliation with other concerns shall be included in this Section K. Failure to furnish the affidavit with the bid shall be treated as a minor informality or irregularity (see 2-405);
- (iii) the clause in 7-2003.13 that provides for a preference for labor surplus area concerns shall be

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included in invitations for bids that do not involve set-asides for labor surplus area concerns;

- (iv) when needed for the purpose of bid evaluation, preaward surveys, or inspection, a requirement that all bidders state the place (including the street address) from which the supplies will be furnished or where the services will be performed. When it is reasonably anticipated that producing facilities will be used in the performance of the contracts, or when Government requires the information, bidders will be required to state (A) the full address of principal producing facilities (if designation of address is not feasible, a full explanation will be required), and (B) names and addresses of owner and operator if other than bidder;
- (v) if the contract is for the Military Assistance Program, include the certificate in 7-2003.50;
- (vi) unless the contract is exempt from the Buy American Act and the Balance of Payments Program, include the certificate in 7-2003.47;
- (vii) unless exempted by 12-805 from inclusion of the Equal Opportunity clause, include the provisions in 7-2003.14(b)(1) and (2);
- (viii) any requirement for prior testing and qualification of a product, when the item to be acquired is on a qualified products list (see Section 1, Part 11);
- (ix) when the contract is for the acquisition of a patented item for which the Government is a licensee (1-304.3), include the provision in 7-2003.15;
- (x) when shipping weights and dimensions are required to evaluate offers as to transportation costs (see 19-210), a provision substantially as in 7-2003.16 shall be included in the solicitation, except that the paragraph relating to the Government's estimated weights and dimensions may be omitted when such estimates cannot reasonably be developed and the file is documented accordingly, prior to the issuance of the solicitation. Solicitations omitting the paragraph relating to the Government's estimated weights and dimensions shall state that the failure to furnish guaranteed shipping weights and dimensions will render offers nonresponsive, unless the contracting officer determines that the shipping weights and dimensions would clearly not affect the standing of the bids. To aid in computing a reduction when the contractor exceeds the guaranteed maximum(s), the award document will show the weight(s) and dimensions used in the evaluation;

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SECTION L - Instructions and Conditions, and Notices to Bidders.

- (i) Standard Form 33A, Solicitation Instructions and Conditions; alternatively, SF 33A may be incorporated by reference to the form name, number, and edition date;
- (ii) the Late Bids provision in 7-2002.2 (this replaces paragraphs 7 and 8 of SF 33A);
- (iii) the Order of Precedence provision in 7-2003.41 (this replaces paragraph 19 of SF 33A);
- (iv) permission, if any, to submit telegraphic bids (see 2-202.2);
- (v) permission, if any, to submit alternate bids, including alternate materials or designs (see 1-1207);
- (vi) if no award will be made for less than the full quantities advertised, a statement to that effect;
- (vii) if award is to be made by specified groups of items or in the aggregate, a statement to that effect;
- (viii) bid guarantee, performance bond, and payment bond requirements, if any (see Section X, Part 1); if a bid bond or other form of bid guarantee is required, the solicitation shall include the provisions required by 10-102.4;
- (ix) directions for obtaining copies of any documents, such as plans, drawings, and specifications, which have been incorporated by reference (see 1-1203);
- (x) any applicable requirements for samples or descriptive literature (see 2-2-2.4 and 2-202.5);
- (xi) in accordance with 7-2003.14(a), the notice of Preaward On Site Equal Opportunity Review set forth therein;
- (xii) if the contract involves performance of services on a Government installation, the provision in 7-2003.39;
- (xiii) in accordance with 6-1104, the U.S.-owned foreign currency provision set forth in 7-2003.62;
- (xiv) when provision for progress payments is to be included in the invitation for bids, the notice in E-504.4 and, if appropriate, the notice in E-504.3;
- (xv) description of the procedures to be followed in obtaining permission to use Government production and research property (see Section XIII, Parts 4 and 5);
- (xvi) invitations for bid that will result in the placement of rated orders or Authorized Controlled Material Orders (see 1-307) shall contain the clause in 7-2003.22;
- (xvii) when considered necessary to stipulate a minimum acceptance period:
 - (A) insert the stipulated number of calendar days in the "Offer" portion of the SF 33, strike the phrase "(60 calendar days unless a different period is inserted by the offeror)" and add the following at the end of the statement: "(See Section L (insert paragraph number))."

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- (xi) when a solicitation may result in an f.o.b. origin contract and the item to be purchased is new to the supply system, nonstandard, or such a modification of a previously shipped item that a different freight classification may apply (e.g., contains new materials, ingredients, changed weight, cube, configuration, etc.) (see 19-202(b)), insert the provision in 7-2003.17;
- (xii) when bids are to be solicited f.o.b. origin only and when it is desired that a bidder be permitted to offer commercial transit credits (see 19-206(b)), insert the provision in 7-2003.18;
- (xiii) when the contract is to include the clause in 7-104.70 and when it is believed that a prospective contractor is likely to include in his f.o.b. origin price a contingent amount to compensate for what may be for him an extremely unfavorable routing condition, which the Government has the option to specify at the time of shipment (see 19-208.2(b)), insert a provision substantially as in 7-2003.19;
- (xiv) when supplies are to be delivered outside the United States and more than one U.S. port of loading meets the eligibility criteria applicable to the nature and quantity of the supplies for movement to the overseas destination (see 19-208.1(b) and 19-213.1(d)), insert the provision in 7-2003.20;
- (xv) when the proposed acquisition consists of a partial set-aside for LSA firms (1-706.7 or 1-804.1) or a partial set-aside for small business firms (1-706.6), insert the clause in 7-2003.21;
- (xvi) the Clean Air and Water Certification in 7-2003.71;
- (xvii) insert the Small Disadvantaged Business Concern representation in 7-2003.74;
- (xviii) insert the Women-Owned Business representation in 7-2003.80;
- (xix) insert the Percent Foreign Content representation in 7-2003.81;
- (xx) when Government specifications are incorporated requiring utilization of recovered materials, insert the certification in 7-2003.82; and
- (xxi) when the solicitation imposes partial or total small business set-aside procedures pursuant to 1-706.5 and 1-706.6, or is for a combined small business-labor surplus area set-aside procurement pursuant to 1-706.7 and is expected to result in award of a contract during fiscal year 1981, 1982, or 1983, insert the Certification of Handicapped Organizations representation in 7-2003.91. The contracting officer may rely on an offeror's self-certification that it qualifies as an eligible organization as defined in 7-2003.91. Questions concerning the eligibility of offerors shall be processed in accordance with procedures in 1-703.

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- (lvii) reserved;
- (lviii) insert the Women-Owned Business representation in 7-2003.80;
- (lix) insert the Percent Foreign Content representation in 7-2003.81;
- (lx) when Government specifications are incorporated requiring utilization of recovered materials, insert the certification in 7-2003.82;
- (lxi) for solicitations involving FMS requirements, insert the clause in 7-104.107 concerning special limitations with respect to sales commissions and fees, when required by 6-1305.6;
- (lxii) when the solicitation is subject to an in-house versus contract cost comparison (Section IV, Part 12), include the clause in 7-2003.89(a);
- (lxiii) insert the solicitation provision at 7-2003.90 requesting the offeror to supply his Data Universal Numbering System (DUNS) Number with his offer;
- (lxiv) when the solicitation imposes partial or total small business set-aside procedures pursuant to 1-706.5 and 1-706.6, or is for a combined small business-labor surplus area set-aside procurement pursuant to 1-706.7 and is expected to result in award of a contract during fiscal year 1981, 1982, or 1983, insert the Certification of Handicapped Organizations representation in 7-2003.91. The contracting officer may rely on an offeror's self-certification that it qualifies as an eligible organization as defined in 7-2003.91. Questions concerning the eligibility of offerors shall be processed in accordance with procedures in 1-703.
- (c) Master Solicitation. A master solicitation is a document containing the text of special provisions which have been identified as being essential for carrying out the peculiar needs of a specific commodity assignment to a single contracting activity within DOD. The document is pre-positioned with potential sources who are requested to retain them for continued and repetitive use. The purpose of this technique is to simplify solicitation and award documents, to reduce the size of solicitations and awards, and concurrently to achieve time and dollar savings for both the Government and industry. The master solicitation technique involves two separate phases, the issuance of the master solicitation and the issuance of the individual solicitation/award. In addition, use of this technique to meet such peculiar requirements shall be subject to the following criteria:
 - (1) The master solicitation shall not be used unless repetitive purchases are anticipated.

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- (2) The master solicitation shall not include non-essential or infrequently used provisions.
- (3) The master solicitation shall consist primarily of those locally developed provisions relating to instructions and procedures requiring repetitive use that cannot otherwise be avoided through use of DAR clauses. The master solicitation shall not include Section VII clauses; however, where the acquisition requires performance outside the U.S., Section VII clauses may be included in the master solicitation.
- (4) Copies of a master solicitation shall be made available upon request.
- (5) There shall be no interim changes, revisions nor amendments to the master solicitation itself. The only approved method of revising the master solicitation shall be by reissuing the entire master solicitation.
- (6) Copies of contracts furnished to the contract administration activity must be complete and shall include a copy of the master solicitation unless prior arrangements have been made.
- (7) The use of this technique shall be limited to those situations where it is clearly demonstrable that a substantial reduction of paperwork and simplification of the contracting process will result. Approval by the Head of the Contracting Activity is required.

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2-202 Miscellaneous Rules for Solicitation of Bids.**2-202.1 Bidding Time.**

(a) Consistent with the needs of the Government for obtaining the supplies or services, all invitations for bids shall allow sufficient bidding time (i.e., the period of time between the date of distribution of an invitation for bids and the date set for opening of bids) to allow bidders an adequate opportunity to prepare and submit their bids. As a general rule, bidding time shall be no less than 30 calendar days. For potential sources in participating countries, see 6-1403.1(a); for sources in FMS/offset arrangement countries, see 6-1310.3(b); and for sources in defense cooperation countries, see 6-1502.1.

(b) This rule need not be observed in special circumstances; for example, where the contracting officer has valid reason to determine that bidders in the second step of two-step formal advertising can prepare and submit their bids in less than 30 calendar days, or where the urgency for the supplies or services does not permit such delay. When the contracting office is located in the United States and a prospective bidder is located at a foreign address, the mailing time associated with international air mail (see 2-203.1) shall be considered when establishing the bid opening date. For items on Qualified Products Lists, see 1-1107.1; for construction contracts, see 18-202(b); and for brand name or equal items, see 1-1206.2.

2-202.2 Telegraphic Bids. As a general rule, telegraphic bids will not be authorized. However, when, in the judgment of the contracting officer, the date for the opening of bids will not allow bidders sufficient time to prepare and submit bids on the prescribed forms or when prices are subject to frequent changes, telegraphic bids may be authorized. When such bids are authorized, the schedule of the invitation for bids will contain the provision in 7-2003.29.

2-202.3 Bid Envelopes. Postage or envelopes bearing "Postage and Fees Paid" indicia shall not be distributed with the invitation for bids or otherwise supplied to prospective bidders. To provide for ready identification and proper handling of bids, Optional Form 17, "Sealed Bid Label", obtainable from the General Services Administration, may be furnished with each bid set to provide the bidder with a means of specifically identifying his bid.

2-202.4 Bid Samples.

(a) *Definition.* The term "bid sample" means a sample required by the invitation for bids to be furnished by a bidder as a part of his bid to show the characteristics of a product offered in his bid. Such samples will be used only for the purpose of determining the responsiveness of the bid and will not be considered on the issue of a bidder's ability to produce the required items.

(b) *Policy.* Bidders shall not be required to furnish a bid sample of a product they propose to furnish unless there are certain characteristics of the product which cannot be described adequately in the applicable specification or purchase description, thus necessitating the submission of a sample to assure acquisition of an acceptable product. It may be appropriate to require bid samples, for example, where the acquisition is of products that must be suitable from the standpoint of balance, facility of use, general "feel," color, or pattern, or that have certain other characteristics which cannot be described adequately in the applicable

2-202.4**ARMED SERVICES PROCUREMENT REGULATION****Part 2—Circumstances Permitting Negotiation**

3-200 General. Subject to the limitations set forth in Part 1 of this Section III and pursuant to the authority of 10 U.S.C. 2304(a), procurement may be effected by negotiation under any one of the exceptions (1) through (17) of 10 U.S.C. 2304(a) set forth in this Part 2, subject, in the case of construction contracts, to the further restrictions of 10 U.S.C. 2304(c) as set forth in 18-301. Each negotiated contract shall contain a reference to the authority under which it was negotiated.

3-201 National Emergency.

3-201.1 Authority. Pursuant to 10 U.S.C. 2304(a)(1), purchases and contracts may be negotiated if—

"it is determined that such action is necessary in the public interest during a national emergency declared by Congress or the President."

3-201.2 Application.

(a) The authority of this paragraph 3-201 shall be used only to the extent determined by the Assistant Secretary of Defense (Installations and Logistics) to be necessary in the public interest, and then only in accordance with Departmental procedures consistent with this paragraph 3-201.

(b) For the duration of the national emergency declared pursuant to Presidential Proclamation 2914, dated December 16, 1950, the Assistant Secretary of Defense (Installations and Logistics) has determined that only the following procurements may be made pursuant to the authority of 10 U.S.C. 2304(a)(1):

- (i) procurements made in keeping with (A) labor surplus set-aside programs (including, when no other negotiating authority is appropriate and the use of formal advertising is not feasible and practicable under the existing conditions and circumstances, the placement of contracts for the total or any part of the requirements set-aside which are not filled by awards made in accordance with the provisions of the Notice of Labor Surplus Area Set-Aside (see 1-804); or (B) disaster area programs; and
- (ii) procurements made in keeping with the small business programs
 - (A) after unilateral determinations for set-asides, or
 - (B) to place the total or any part of the requirements set aside (unilateral or joint) which are not filled by awards to small business concerns, when no other negotiating authority is appropriate and the use of formal advertising is not feasible and practicable (see 1-706.7).

3-201.3 Limitation. The authority of this paragraph 3-201 shall not be used when negotiation is authorized by the provisions of 3-206 except that, in the event of a labor surplus or small business set-aside, this authority shall be used in preference to any other authority in this Part 2 (see 1-706.2 and 1-804.4). The authority of this paragraph shall not be to negotiate a reasonable price with a low responsible small business bidder whose bid has been determined by the contracting officer to be an unreasonable bid under Small Business Restricted Advertising procedures. When such an unreasonable bid is received, the set-aside shall be discontinued.

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solved and the requirement procured on an unrestricted basis by the use of formal advertising or where appropriate by other negotiation authority in accordance with existing regulations.

3-202 Public Exigency.

3-202.1 *Authority.* Pursuant to the authority of 10 U.S.C. 2304(a)(2) purchases and contracts may be negotiated if—

"the public exigency will not permit the delay incident to advertising."

3-202.2 *Application.* In order for the authority of this paragraph 3-202 to be used, the need must be compelling and of unusual urgency, as when the Government would be seriously injured, financially or otherwise, if the supplies or services were not furnished by a certain date, and when they could not be procured by that date by means of formal advertising. When negotiating under this authority, competition to the maximum extent practicable, within the time allowed, shall be obtained. The following are illustrative of circumstances with respect to which this authority may be used:

- (i) supplies, services, or construction needed at once because of fire, flood, explosion, or other disaster;
- (ii) essential equipment for, or repair to, a ship when such equipment repair is needed at once for compliance with the orders of the ship;
- (iii) essential equipment for, or repair to, aircraft grounded or about to be grounded, when such equipment or repair is needed at once for the performance of the operational mission of such aircraft;
- (iv) construction needed at once to preserve a structure or its contents from damage;
- (v) essential equipment for, or repair to, missiles or missile support equipment, when such equipment or repair is needed at once to preclude impairment of launch capabilities or mission performance;
- (vi) purchase requests citing an issue priority designator under the Uniform Material Movement and Issue Priority System (UMMIPS), which may justify negotiation under this or other negotiation authority, but in such cases the specific circumstances must be set forth in the determination and findings; or
- (vii) purchase requests citing "Electronic Warfare QRC Priority" as the priority designator.

3-202.3 *Limitation.* Every contract negotiated under the authority of this paragraph 3-202 shall be accompanied with a determination and findings justifying its use, signed by the contracting officer and prepared in accordance with the requirements of Part 3 of this Section III. The authority of this paragraph 3-202 shall not be used when negotiation is authorized by the provisions of 3-203 or 3-206.

3-203 Purchases Not More Than \$10,000.

3-203.1 *Authority.* Pursuant to 10 U.S.C. 2304(a)(3), purchases and contracts may be negotiated if—

"the aggregate amount involved is not more than \$10,000."

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SECTION F - Deliveries or Performance.

- (i) the time of delivery or performance (see 1-305);
- (ii) place and method of delivery (see Section XIX);
- (iii) when MILSTAMP procedures apply to shipments of supplies, a provision setting forth the obligations of the contractor under such procedures (see 19-101).

SECTION G - Contract Administration Data.

- (i) accounting and appropriation data (Note: where SF 33 is used, include only data not set forth on that form);
- (ii) instructions to paying offices and administrative contracting offices, including name, organization code, and telephone area code, number, and extension of contracting office representative.

SECTION H - Special Provisions.

- (i) if the contract is to include option provisions, a clear statement of the provisions (see 1-1506);
- (ii) if the contract is to include design-to-cost requirements, provisions in accordance with 1-338; if 1-1503(d) applies, a conspicuous notice cautioning offerors that an offer containing an option price higher than the base price may be accepted only if the acceptance does not prejudice any other offeror (this may be placed elsewhere as long as the notice is adjacent to the limitation as to option price);
- (iv) if the price negotiated is not predicated on allowability of the cost of money for facilities capital employed, the contract shall include a statement that: the cost of money for facilities capital (15-205.50) is unallowable.
- (v) if the contract is to be conditioned on the availability of funds, include one of the clauses in 7-104.91;
- (vi) if the contract is multiyear, the provisions required by 1-322.2(a), (b), or (f);
- (vii) any progress payments provisions (see Appendix E);
- (viii) any applicable Service Contract Act wage determinations of the Secretary of Labor (see Section XII, Part 10);
- (ix) any special provisions relating to the Government's providing Government production and research property (see Section XIII, Part 3);
- (x) when the clause in 7-104.62 is included in the contract and Appendix I, Table 2, does not list

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- addresses of the required special distribution recipients, the applicable names and addresses shall be included in this Section H. The contracting office issuing the contract shall reference the line item as necessary, the addresses of the status control activity/inventory manager, and, if applicable, the processing contracting office cited in the Military Inter-departmental Purchase Request (MIPR);
- (xi) in accordance with 1-1208, the clause in 7-104.48 and the clause in 7-104.49;
 - (xii) if the contract is to contain the Safety Precautions for Ammunition and Explosives clause in 7-104.79, a specific list of any of the mandatory requirements of DoD Manual 4145.26-M that are being waived;
 - (xiii) when the contract is expected to contain requirements for provisioned items, include the information prescribed in 4-302.1;
 - (xiv) for acquisitions involving Military Assistance Program (MAP) (Grant Aid), include the MAP Record Control/Program/Directive Number Identifier and special markings, if appropriate. For Foreign Military Sales (FMS) acquisitions, include the special markings, if appropriate, and specify the FMS case identifier code by line/subline item number, e.g., FMS Case Identifier CY-D-DCA. These identification entries are required to permit the contractor to comply with Appendix I-301, Block 16(12), and to facilitate collection of contract administration charges from foreign governments on FMS acquisitions.
 - (xv) if the contract is for supplies acquired for resale, include the clause in 7-104.88;
 - (xvi) if international air transportation of personnel and cargo is possible during performance of the contract, include the clause in 7-104.95;
 - (xvii) in accordance with 9-603(b), insert the Identification of Restricted Rights Computer Software provision in 7-2003.76;
 - (xviii) if the contract is to involve materials of a hazardous nature, include the clause in 7-104.98 as prescribed by 1-323.2; and
 - (xix) when the proposed contract is to require the contractor to prepare production progress reporting in accordance with the clause in 7-104.51, the contract schedule shall contain instructions as prescribed in 25-202.

Part II—General Provisions

SECTION I - General Provisions.

- (i) such general contract provisions (contract clauses) as are required by law or by this Regulation;

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- (iv) a statement requesting the prospective offeror or quoter to list the names and telephone numbers of persons authorized to conduct negotiations;
- (v) where SF 33 (Solicitation, Offer, and Award) is not used, a statement that prospective offerors/quoters should indicate in the offer/quotation the address to which payment should be mailed, if such address is different from that shown for the offeror/quoter. (Contracting officers shall include this information in all resultant contracts that are to be administered by a Defense Contract Administration Services Regional Office);
- (vi) unless exempted by 12-805 from inclusion of the Equal Opportunity clause, the provisions in 7-2003.14(b)(1) and (2);
- (vii) the clause in 7-2003.13 shall be included in Requests for Proposals that do not involve set-asides for labor surplus area concerns;
- (viii) a requirement that the proposal or quotation state the intended place of performance, including the street address, and the names and addresses of owner and operator of producing facilities, if other than offeror or quoter, when it is reasonably anticipated that such facilities will be used in the performance of the contract;
- (ix) if the contract is for the Military Assistance Program, the certificate in 7-2003.50;
- (x) unless the contract is exempt from the Buy American Act and the Balance of Payments Program, the certificate in 7-2003.47;
- (xi) a request that prospective offerors or quoters state whether, to their knowledge, the contract performance involves the acquisition of Government production and research property, the disposal of which may be restricted by patent or other rights (see 13-307(b));
- (xii) when the delivery of technical data is required, insert the provision in 7-2003.66;
- (xiii) the appropriate transportation solicitation provisions as required by 2-201(a) Section K (x) through (xiv);
- (xiv) (A) in accordance with 3-1203(a), insert the provision in 7-2003.67(a);
- (B) in accordance with 3-1204.1(a)(vii)(A), insert the provision in 7-2003.67(b);
- (C) in accordance with 3-1204.1(b), insert the provision in 7-2003.67(c);
- (D) in accordance with 3-1213(a), insert the provision in 7-2003.67(d);
- (xv) any requirement for royalty information to be furnished with the offer of quotation (see 9-110(a));

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- (xvi) when neither SF 33 (Solicitation, Offer, and Award) nor SF 18 (Request for Quotations) is used, insert a requirement for inclusion of "country" as part of quoter's/offeree's address;
- (xvii) when the contract is for the purchase of a patented item for which the Government is a licensee (1-304.3), insert the provision in 7-2003.15;
- (xviii) when the proposed acquisition consists of a partial set-aside for LSA firms (1-706.7 or 1-804.1) or a partial set-aside for small business firms (1-706.6), include the clause in 7-2003.21;
- (xix) the Clean Air and Water certification in 7-2003.71;
- (xx) insert the Small Disadvantaged Business Concern representation in 7-2003.74;
- (xxi) insert the Women-Owned Business representation in 7-2003.80;
- (xxii) insert the Percent Foreign Content representation in 7-2003.81;
- (xxiii) when the solicitation imposes partial or total small business set-aside procedures pursuant to 1-706.5 and 1-706.6, or is for a combined small business-labor surplus area set-aside procurement pursuant to 1-706.7 and is expected to result in award of a contract during fiscal year 1981, 1982, or 1983, insert the Certification of Handicapped Organizations representation in 7-2003.91. The contracting officer may rely on an offeror's self-certification that it qualifies as an eligible organization as defined in 7-2003.91. Questions concerning the eligibility of offerors shall be processed in accordance with procedures in 1-703.

SECTION 3 - Instructions and Conditions, and Notices to Offerors/

- (i) when SF 32 is used, it shall be accompanied by SF 33A (Solicitation Instructions and Conditions); alternatively, SF 33A may be incorporated by reference to the term name, number and edition date;
- (ii) the Late Technical Proposals provision in 7-2002.3 or the Late Proposals provision in 7-2002.4 (these replace paragraphs 7 and 8 of SF 33A);
- (iii) the Order of Precedence provision in 7-2003.41 (this replaces paragraph 9 of SF 33A);
- (iv) type of contract contemplated together with type of accounting and economic price adjustment, if any;

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- (xii) if pursuant to 1-1504, options are to be evaluated for award, the applicable *Evaluation of Options* provision shall be inserted;
- (xiii) if 1-1503(d) applies, a conspicuous notice cautioning offerors that an offer containing an option price higher than the base price may be accepted only if such acceptance does not prejudice any other offeror; (This may be placed elsewhere so long as the notice is adjacent to the limitation as to option price.)
- (xliii) any requirement for royalty information to be furnished with the offer, proposal or quotation (see 9-110(a));
- (xlii) when the contract is for the purchase of a patented item for which the Government is a licensee (1-304.3), include the provision in 7-2003.15;
- (xli) a statement on the first sheet or on a cover sheet of the Request for Proposals that:
- PROPOSALS MUST SET FORTH FULL, ACCURATE, AND COMPLETE INFORMATION AS REQUIRED BY THIS REQUEST FOR PROPOSAL (INCLUDING ATTACHMENTS). THE PENALTY FOR MAKING FALSE STATEMENTS IN PROPOSALS IS PRESCRIBED IN 18 U.S.C. 1001.
- (xli) a statement of arrangements to be made for inspecting the site, including designation of the person or persons, if any, with whom such arrangements may be made and who will answer questions or furnish information;
- (xlii) information which may affect performance of the work such as boring samples, original boring logs, etc.;
- (xliii) information as to what utilities the Government will furnish during construction, when the contracting officer determines that any new utilities are adequate for the needs of both the Government and the contractor (see 7-603.30);
- (xli) Reserved;
- (li) (A) in accordance with 3-1203(a), insert the provision in 7-2003.67(a);
- (B) in accordance with 3-1204, insert the provision in 7-2003.67(b);
- (C) in accordance with 3-1213(a), insert the provision in 7-2003.67(c);
- (lii) the *Late Technical Proposals* provision in 7-2002.3, or the Late Proposals provision in 7-2002.4, (these replace paragraphs 7 and 8 of SF 22);
- (liii) if international air transportation of personnel and cargo is possible during performance of the contract, the clause in 7-104.95;
- (liiv) the *Contingent Fee* provision in 7-2002.1 shall be substituted for paragraph 3 of SF 19-B;
- (li) the *Clean Air and Water Certification* in 7-2003.71;
- (lii) Reserved;
- (lii) when the statement of work requires the design, development or operation of a system of records on individuals for an agency function, insert the provision in 7-2003.72;
- (liiii) if the contract is for the acquisition of goods or services for MAP, IMET, or FMS, include the clause in 7-104.97;

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(lix) if the contract includes FMS requirements, identify the contract by clearly stamping or otherwise indicating "FMS Requirement" on the cover sheet of the contract;

(lx) reserved;

(lxi) when Government specifications are incorporated requiring utilization of recovered materials, insert the certification in 7-2003.82.

(lxii) when the provisions of the Buy American Act or the Balance of Payments Program apply, include the clauses in 7-104.3, 7-104.32, 7-2003.47, and 7-104.106 as prescribed in 6-104.5, 6-803.1(e).

(lxiii) for solicitations involving FMS requirements, insert the clause in 7-104.107 concerning special limitations with respect to sales commissions and fees, when required by 6-1305.6.

(lxiv) when the solicitation is subject to an in-house versus contract cost comparison (Section IV, Part 12), include the clause in 7-2003.89(b).

(lxv) insert the solicitation provision at 7-2003.90 requesting the offeror to supply his Data Universal Numbering System (DUNS) Number with his offer.

(lxvi) when the solicitation imposes partial or total small business set-aside procedures pursuant to 1-706.5 and 1-706.6, or is for a combined small business-labor surplus area set-aside procurement pursuant to 1-706.7 and is expected to result in award of a contract during fiscal year 1981, 1982, or 1983, insert the Certification of Handicapped Organizations representation in 7-2003.91. The contracting officer may rely on an offeror's self-certification that it qualifies as an eligible organization as defined in 7-2003.91. Questions concerning the eligibility of offerors shall be processed in accordance with procedures in 1-703.

(d) *Oral Solicitations.*

(1) Oral solicitations are authorized for small purchases (see Section III, Part 6) and for the acquisition of perishable subsistence.

(2) Oral solicitations, other than those described in (1) above, are authorized in cases where the processing of a written solicitation would delay the furnishing of the supplies or services to the detriment of the Government. Examples of such circumstances may include those listed in 3-202.2. However, oral solicitation is not to be considered justified solely because a high issue Priority Designator has been assigned to the requirement. In addition to other applicable

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documentation requirements (see 1-308), the record of contract actions above shall include a resume of the circumstances that justified use of an oral solicitation, item description, quantity, deliveries required, sources solicited, prices quoted (including name of individual contacted), date and time contacted, and the solicitation number (see 20-203) provided the prospective sources. Should the issuance of the resulting contractual instrument be unduly delayed, the contract file should be documented to describe the reasons for the delay and justify award based upon the oral solicitation.

(3) Use of oral solicitation does not relieve the contracting officer from complying with other applicable portions of this Regulation; e.g., the appropriate requirements of (b) above, postaward notice of offerors (see 3-508.3), price negotiation policies and techniques (Section III, Part 8), and submission of same terms and conditions to all offerors.

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- (iv) effective date; and
- (v) amount and location of fund.

An alternate cashier may be appointed (see (3) below) on the same order as the principal. Two copies of the orders shall be furnished to cashiers, and one copy each to the disbursing office and the installation or activity purchasing office.

(3) An alternate imprest fund cashier may be appointed to provide service during the absence of the principal cashier. Appointment requirements for principal cashiers shall apply to alternate cashiers. In planned absences of the principal cashier, cash may be advanced by the principal to the alternate in any amount up to the limit of the fund. The principal shall obtain a signed cash receipt from the alternate. Upon resumption of his duties, the principal cashier shall return the cash receipt to the alternate after obtaining paid receipts, subvouchers (see 3-607.4(f)(2)) and residual cash. In the unforeseen absence of the principal cashier, funds may be advanced to the alternate in the normal manner by the disbursing officer. These funds shall be in addition to the amount currently advanced to the principal cashier under the established fund, but shall not exceed the amount of the fund. Upon return of the principal cashier, the alternate shall return paid receipts, subvouchers, and residual cash, to the disbursing officer.

3-607.3 Conditions for Use.

(a) Imprest funds may be used in accomplishing small purchases when all of the following conditions are present:

- (i) the transaction is not in excess of \$150 (\$300 under emergency conditions);
 - (ii) the supplies or services are available for delivery within 60 days, whether at the supplier's place of business or at destination; and
 - (iii) the purchase does not require detailed technical specifications or technical inspection.
- (b) Imprest funds may also be used for payment of:
- (i) charges for local delivery, parcel post (including c.o.d. postal charges) and line haul or inter-city transportation charges of \$75.00 or less for supplies ordered for payment from imprest funds when the vendor is requested to arrange for delivery;
 - (ii) c.o.d. charges for supplies ordered for payment from imprest funds; and
 - (iii) civilian volunteers for participation in approved medical research projects.

(c) The conditions for use specified in (a) and (b) above do not preclude the use of imprest funds for other expenditures not related to small purchases (e.g., travel advances, travel expenses, transportation charges, and purchases of postage stamps and transportation tokens or passes), when such expenditures are authorized by other regulations governing the use of imprest funds.

(d) Imprest funds shall not be used for:

- (i) payments of salaries and wages;
- (ii) advances, other than those authorized in 3-607.4; or
- (iii) cashing of checks or other negotiable instruments.

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3-607.4 Procedures.

(a) *Procurement.* Purchases from the imprest fund shall be based upon an authorized purchase request and shall be made only by personnel authorized by the contracting officer. Orders may be placed orally or by use of Standard Form 1165 (Receipt for Cash—Subvoucher) without soliciting competition when prices are considered to be reasonable, but shall be distributed equitably among qualified suppliers. Prompt payment discounts shall be solicited, and a sales document shall be obtained to support the cash payment. An authorized purchase order form endorsed "Payment to be made from Imprest Fund" may be used when required by supplier for granting Government discounts, or tax exemptions. (Since purchases through the use of imprest funds are of relatively small value, Government tax exemption certificates generally will not be required (see 11-500(b)).) When the proposed purchase price will exceed any stated monetary restrictions on the purchase request, additional authorization shall be obtained prior to making the purchase. Copies of the purchase request document shall be marked to show:

- (i) that an imprest fund purchase has been made,
 - (ii) the unit prices and extensions,
 - (iii) the supplier's name and address, and
 - (iv) anticipated date of delivery or pickup.
- (b) *Sales Document.* A sales document is a term applied to a supplier's invoice, sales ticket, packing slip, or any other sales instrument containing the following minimum information:
- (i) supplier's name and address;
 - (ii) list of items;
 - (iii) quantity;
 - (iv) unit price and extension; and
 - (v) cash discount, if any.

(c) Receipt of Material.

(1) All material purchased through the imprest fund shall be delivered to a designated receiving activity. The receiver shall examine the material to ascertain that the quantities and items described on the purchase request document and the supplier's sales document are present and in satisfactory condition. If the material is acceptable, the receiver shall stamp the supplier's sales document "Received and Accepted," date and sign the document, and pass it to the imprest fund cashier for payment. A supplier's sales document, a receipted Standard Form 1165 (Receipt for Cash—Subvoucher), DD Form 1155 (Order for Supplies or Services/Request for Quotations), or DD Form 1348-1 (DoD Single Line Item Release/Receipt Document) may be used to record the receipt of purchases made from the imprest fund and shall be processed in the same manner. The minimum information specified in (b) above shall be included in the document used to record the receipt of purchases.

(2) When it is not practicable to obtain delivery of material at destination on a c.o.d. basis, advance arrangement may be made for the material to be picked up. The imprest fund cashier may then advance cash to an authorized individual to pick up and pay for the material. Necessary certifications of receipt and acceptance of material shall be obtained on one of the documents as indicated in (1) above. Receipt for cash payment (see (e) below) shall be made on the same document, which will serve as the imprest fund receipt.

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(4) The negotiation conference will be conducted by the contracting officer or his authorized representative. The results of the negotiation will be binding on all procuring activities. In the event overhead rates other than the final overhead rates were utilized to effect a settlement or closure of a specific contract, that fact will not be considered a precedent when negotiating final overhead rates.

(5) At the completion of the negotiation, the contracting officer will prepare a written overhead negotiation memorandum (see the relevant parts of 3-811) and a written overhead rate agreement which will conform to paragraph (g) of the clause in 7-203.4, 7-402.3, 7-702.10 and 7-703.9. The overhead negotiation memorandum will include (i) a complete reconciliation of all costs questioned by the Government which identifies items and amounts allowed or disallowed in the final settlement as well as the disposition of period costing or allocability issues, and (ii) a rationale for all aspects of the settlement in which the recommendations of the auditor or other Government advisors to the contracting officer were not followed.

(c) *Established by Audit Determination.* The procedure for the establishment of final overhead rates by audit determination should consist of: (i) submission by the contractor of an overhead rate proposal consisting of actual cost experience during the period, together with supporting data to the cognizant audit activity and to the cognizant ACO; (ii) audit and discussion of audit findings with the contractor; (iii) cost or pricing data certification; (iv) preparation of a written overhead rate agreement, which will conform to paragraph (g) of the clause in 7-203.4, 7-402.3, 7-605.5, 7-702.10 and 7-703.9, signed by the contractor and auditor-in-charge; and (v) preparation of an audit report detailing the audit findings, the cost impact of technical recommendations and results of discussion of such findings with the contractor. In the event agreement is not reached, the auditor will issue in addition to the advisory audit report, DCAA Form 1 detailing the items of exception to which the contractor can formally appeal to the cognizant ACO.

(d) *Distribution of Documents.*

(1) One executed copy of the overhead rate agreement will be furnished to the contractor, the cognizant CACO (if assigned), the cognizant ACO, and the cognizant auditor. In addition, copies will be distributed to other Departments, and (upon specific request) any other interested Government agencies. Departments may make further distribution to activities within their departments and shall insert one copy in each contractor general file (see S2-101.2 and S2-102.4).

(2) One copy of the overhead negotiation memorandum prepared under procurement determination procedures or the audit report prepared under audit determination procedures will be furnished to the cognizant CACO (if assigned), the cognizant ACO, and the cognizant auditor. At those assigned negotiating units where total DoD sales in the year negotiated exceeded \$100 million, a copy of the overhead negotiation memorandum will also

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be furnished to the ICMA. Upon specific request, a copy will be furnished to other Departments or Government agencies.

3-706 *Interagency Coordination for Educational Institutions.* Each educational institution will be assigned to a single Government agency which will be responsible for negotiating final overhead rates. The procedures set forth in 3-705 will be followed in determining rates for those institutions assigned to the Department of Defense. The sponsoring Department will notify other interested Government agencies of each pending negotiation and invite these agencies to send representatives to participate in the negotiations. Departments having contracts with institutions assigned to nondefense agencies for negotiation of overhead rates will be invited to participate in such negotiations. When institutions are assigned to agencies other than the Department of Defense, the cognizant agency will prepare and distribute copies of executed overhead rate agreements to interested Departments.

3-707 *Cost Sharing Rates.* Cost sharing arrangements provide for cost participation by the contractor as evidenced by an agreement to contribute to direct cost and/or accept overhead rates which are lower than the anticipated actual overhead rates. In such cases, a negotiated fixed-ceiling overhead rate may be used for application prospectively, *provided that*, in the event final overhead rates established by procurement or audit determination are less than the negotiated rates, the negotiated rates will be reduced. When reductions are necessary, they will be accomplished in accordance with 3-705. The Government will not be obligated to pay any additional amounts on account of overhead above the negotiated fixed-ceiling rates (for cost sharing practices under research and development contracts, see 4-110).

3-708 *Quick Closeout Procedure.* When indirect costs allocated to a contract are relatively insignificant and agreement can be reached on a reasonable estimate of allocable dollars, a physically completed contract may be closed in advance of the final overhead rate determination. This determination shall be con-

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ment from interim to final contract cost of money. However, estimated or target cost will not be adjusted.

3-1300.7 Administrative Procedures.

(a) Contractor submission of Forms CASB-CMF will normally be initiated under the same circumstances as Forward Pricing Rate Agreements (see 3-807.8), and evaluated as complementary documents and procedures. Separate Forms are required for each prospective cost accounting period during which Government contract performance is anticipated. If the contractor does not annually negotiate FPRA's, submissions may nevertheless be made annually or with individual contract pricing proposals, as agreed to by the contractor and the cognizant ACO. The cognizant ACO shall, with the assistance of the cognizant auditor, evaluate the cost of money factors, and retain approved factors with other negotiated forward pricing data and rates.

(b) When a contracting officer uses the Weighted Guidelines method of determining a profit objective under the criteria of 3-808.2, he will complete a DD Form 1861 "Contract Facilities Capital and Cost of Money" after evaluating the contractor's cost proposal and determining this pre-negotiation cost objective, but before completing a DD Form 1547 "Weighted Guidelines Profit/Fee Objective". When available, a computer generated form is acceptable, provided all essential elements of data are included and identified as DD Form 1861 data. At his option, a PCO may request the cognizant ACO to complete the DD Form 1861 in connection with normal field pricing support under 3-801.5, and include it in this field pricing report with appropriate evaluation comments and recommendations.

(c) A final Form CASB-CMF must be submitted by the contractor under CAS 414 as soon after the end of each cost accounting period as possible, for the purpose of final cost determinations and/or repricing. The submission should accompany the contractor's proposal for actual overhead costs and rates, and be evaluated as complementary documents and procedures.

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Part 14—Indirect Cost Monitoring Office

3-1400 Scope of Part. This Part deals with the organization and function of the Indirect Cost Monitoring Office (ICMO) and its role in the DoD procurement process.

3-1401 General. The Indirect Cost Monitoring Office (ICMO), under the direction of the Director, Contracts and Systems Acquisition, Office of the Under Secretary of Defense, Research and Engineering, is responsible for assuring uniform application of contracting policies and consistent treatment of cost allowability including research and development/bid and proposal (IR&D/B&P) costs, and for promoting timely and equitable settlement of overhead and advance agreements for IR&D/B&P costs. The function of the ICMO will include:

- (i) maintaining a data bank concerning Section XV cost principles;
- (ii) maintaining a liaison with DCAA to achieve maximum consistency between negotiation decisions and audit decisions as to contracting officer determined and audit determined final overhead rates;
- (iii) attending, after coordination with the Departments, selected negotiations of final overhead rates to act as an observer/advisor, as appropriate, and to identify problem areas requiring policy change;
- (iv) monitoring the negotiation of advance agreements for IR&D/B&P in order to assure maximum uniformity and consistency, and maintaining an awareness of matters that may require policy change;
- (v) recommending to the Director, Contracts and Systems Acquisition (C&SA), OUSD(R&E), policy changes as needed;
- (vi) monitoring establishment of CACO's and the conduct of contracting officer determination assignments in accordance with established criteria. The responsibility and authority for establishing the positions and designation of the individual to perform the function remains with the cognizant Department;
- (vii) maintaining a master list of contractor locations and responsible activities where final overhead rates are contracting officer determined and negotiated advance agreements for IR&D and B&P costs are required by Public Law 91-441;

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- (viii) providing advice in resolving disagreements between CACO's and ACO's designated by different Departments and assigned final overhead determination responsibilities within a corporation or business enterprise;
- (ix) reviewing proposed changes relative to the assignments for negotiation of IR&D/B&P advance agreements, and making appropriate recommendations to the Director (C&SA), OUSD (R&E).

3-1402 Master List Reports.

(a) The Departments and DCAA shall furnish the following reports to the ICMO:

- (i) a report submitted within 10 working days after the close of each fiscal quarter shall list newly acquired or recently transferred contractors, as well as those business entities that no longer exist due to reorganizations, mergers or consolidations. This report is covered by RCS DD-DR&E(Q)1556.
- (ii) a report submitted within 30 days after the close of the fiscal year ending 30 September 1980 and every two years thereafter, listing the contractors for which each Department and DCAA has cognizance for final overhead rates. This report is covered by RCS DD-DR&E(B)1557.

(b) The reports required in (a) above shall include as a minimum:

- (i) contractor's name, location(s) (i.e., mailing address, specifically: street address, city, state, zip code), and fiscal year ending date (YYMMDD);
- (ii) Department of cognizant ACO and location by assigned negotiation unit (including ACO name (last name, first, middle initial), mailing address (street address, city, state, zip code) and telephone number);
- (iii) Department of CACO and location (including CACO name (last name, first, middle initial), mailing address (street address, city, state, zip code) and telephone number);

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- (iv) whether contractor has advance agreement for Independent Research and Development (IR&D) and Bid and Proposal (B&P) costs and, if so, the cognizant negotiating activity.
- (v) the most recent year for which the contractor's final overhead rates have been completed.

(c) All reports and correspondence to the ICMO shall be addressed to:

Headquarters, Naval Material Command (MAT 08CD)
Indirect Cost Monitoring Office (ICMO),
Washington, D. C. 20360

3-1403 Status and Completion Reports. The ICMO shall maintain a current listing of the status of open overhead negotiations together with a record of ultimate resolutions and rationale for significant items of questioned costs. The following two reports from the field will provide the basis for this information.

(a) *Report on Status of Open Overhead Negotiations.* The Departments and DCAA shall submit a report on the status of open overhead negotiations to the ICMO semi-annually for which a *Report of Completed Overhead Negotiation*, as described in (b) below, has not been filed. The report on the status of open overhead negotiations shall include the following information:

- (i) ending date (YYMMDD) of the period being reported upon;
- (ii) contractor name, location (i.e., mailing address, specifically: street address, city, state, zip code), and negotiation unit;
- (iii) information setting forth which of the steps in DAR 3-705(b) have been completed in which open years;
- (iv) any explanatory comments considered appropriate.

This report is covered by RCS DD-DR&E(SA)1558.

(b) *Report of Completed Overhead Negotiation.* This report will serve to tell the ICMO that a particular overhead agreement has been negotiated and that all of the steps required by DAR 3-705(b) have been completed. The Departments shall send the *Report of Completed Overhead Negotiation* to the ICMO within 30 days after the overhead

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- (xv) the amount ultimately disallowed;
- (xvi) the DAR or CAS reference under which the cost was claimed to be valid, if applicable;
- (xvii) the DAR or CAS reference under which the cost was disallowed, if applicable;
- (xviii) a narrative paragraph setting forth in sufficient detail the issues and rationale for their resolution.

Note: For contractors with DoD sales less than \$100 million, the report shall only provide comments relative to items (i) through (x) above.

This report is covered by RCS DD-DR&E(AR)1559.

(c) *Report of Completed IR&D/B&P Advance Agreements.* For those contractors required by P.L. 91-441 to negotiate IR&D/B&P advance agreements pursuant to 15-205.3 and 15-205.35, the cognizant Departmental Office will send to the ICMO the Report of Completed IR&D/B&P Negotiation within 60 days after the agreement is executed, including a copy of the advance agreement. The report shall include, as a minimum, the current year negotiated and the three preceding years:

- (i) the amount proposed for each ceiling of IR&D and B&P;
- (ii) the ceiling negotiated for both IR&D and B&P;
- (iii) the actual cost incurred for IR&D and B&P (through preceding years only);
- (iv) the dollar amounts of the allocation base together with a narrative description of the base of allocation, including a listing of all exclusions;
- (v) the amount recovered from DoD for each of the IR&D and B&P expenditures;
- (vi) total sales for commercial, DoD, NASA and other Government. The DoD sales figure shall be broken down by sales for each military department and should be further quantified as to type (i.e., firm fixed price, CPFF, etc.).
- (vii) technical rating.

This report is covered by RCS DD-DR&E(AR)1560.

3-1404 Data Bank. A data bank will be established and maintained by the ICMO for the purpose of consolidating and maintaining such data as may be needed by DoD personnel in

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agreement is executed. If the negotiation memorandum prepared by the cognizant negotiating activity under the provisions of DAR 3-705(b)(5) contains or is supplemented to include all of the information required below in the Completion Report, the negotiation memorandum may be furnished to the ICMO in lieu of that report. The Completion Report shall contain the following:

- (i) date (YYMMDD) report filed;
- (ii) date (YYMMDD) of execution of overhead agreement;
- (iii) name of contractor;
- (iv) negotiation unit/location (i.e., mailing address, specifically: street address, city, state, zip code) for which rates have been agreed upon;
- (v) fiscal year negotiated (ending date (YYMMDD));
- (vi) total sales in year negotiated;
- (vii) Government sales in year negotiated;
- (viii) DoD sales in year negotiated;
- (ix) responsible Government negotiating activity (including address (street address, city, state, zip code) and telephone number);
- (x) name of Administrative Contracting Officer (last name, first, middle initial);
- (xi) identification of the issue/account involved;
- (xii) total amount of account involved;
- (xiii) the total amount questioned by the Government;
- (xiv) the ultimate mode of resolution; of total amount of account involved, this may be either:
 - (A) costs incurred but not claimed or proposed by the contractor; or
 - (B) costs with which the contractor concurred as allowable prior to negotiation; or
 - (C) costs questioned by the Government but not agreed to by the contractor and ultimately resolved at the negotiation conference;

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the determination of overhead rates. The data bank will be a compilation of materials furnished by DoD and participating DoD components, which material may contain confidential business data that must be protected in accordance with applicable law and regulation (see 1-329.3(c)(4)). Such material shall include ICMO Working Group papers, selected findings of the ICMO reporting systems, Departmental policy and guidance statements and special topical reports, and other appropriate material.

3-1405 Guidance Papers.

(a) The ICMO guidance papers are issued to provide criteria for Government field personnel to use in the resolution of identified problems. The criteria set forth in the guidance paper shall be used for purposes of establishing a basis for the resolution of the subject issues. In the final settlement, the contracting officer and cognizant DCAA auditor are still responsible for exercising their best judgment in such a manner to protect the best interest of the Government on each individual issue.

(b) Proposed guidance papers will be coordinated with representatives of the ICMO Working Group as indicated in 3-1406. The coordinated guidance paper, along with Departmental and DCAA positions, will be presented to the Director (C&SA), OUSD(R&E), for approval and publication as appropriate.

3-1406 ICMO Working Group. The Working Group shall consist of representatives of each Military Department, DLA/DCAS, and DCAA. Representatives of OUSD(R&E)(C&SA) and OASD(C)DASD(Audit) will participate as consultants. The Working Group shall be chaired by the ICMO designee. It shall meet at the call of the Chairman to coordinate actions and perform research. The Chairman shall specify task assignments, establish cases and assign case numbers, make case assignments to Working Group members, determine case priorities, and issue resulting guidance papers. Projects which require expenditure of significant DoD resources shall be approved by the Director (C&SA), OUSD(R&E), prior to initiation.

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technical personnel, small business specialists, and contracting officers to obtain information and recommendations with respect to potential sources and to consider the desirability of seeking other sources by publication of proposed procurements, in addition to the synopsis requirement.

(b) In addition to (a) above, and where the procurement mission warrants it, Research and Development Bidders Mailing Lists will be established by purchasing activities in accordance with ASPR Supplement No. 4, "Procedures for Submission of Applications To Be Placed on Research and Development Bidders Mailing Lists."

4-104 Method of Contracting. In research and development procurements it is generally not possible to formulate precise specifications necessary for formal advertising and, therefore, negotiation is necessary. The inherent difficulties in obtaining research and development by formal advertising are recognized by the exception in 3-211. However, two-step formal advertising as stated in Section II, Part 5, may be useful, for example, in the case of an advanced developmental project. While the use of negotiation is the general rule for research and development contracts, this does not diminish the obligation to obtain competition to the maximum practicable extent. (See Section III, Parts 1 and 2.)

4-105 Statement of Work.

(a) The preparation and use of a clear and complete statement of work is essential to sound contracting for research and development. In research, exploratory development and advanced development, statements of work must be individually tailored by technical and contracting personnel to attain the desired degree of flexibility for contractor creativity, both in submitting proposals and in contract performance. Careful distinction must be drawn between level-of-effort work statements, which essentially require the furnishing of technical effort and a report on the results thereof, and task completion type work statements which often require development of tangible end items designed to meet specific performance characteristics.

(b) In preparing statements of work, the following elements shall be considered:

- (i) a general description of the required objectives and desired results;
- (ii) background information helpful to a clear understanding of the requirements and how they evolved;
- (iii) technical considerations, such as any known specific phenomena or techniques;
- (iv) a detailed description of the technical requirements and subordinate tasks;
- (v) a description of reporting requirements and any other deliverable items, such as data, experimental hardware, mock-ups, prototypes, etc.;
- (vi) design to cost requirements; and
- (vii) other special considerations.

4-106 Selection of Research and Development Contractors.

4-106.1 Selection of Sources.

(a) *General.* Through its research and development programs, the Department of Defense must seek the most advanced scientific knowledge attainable and the best possible equipment, weapons, and weapon systems that can be

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devised and produced. This means two things. First, it means seeking the best scientific and technological sources consistent with the demands of the proposed procurement for the best mix of cost, performances and schedules. Second, it means unremitting efforts to increase the number of qualified sources, and to encourage participation by small business concerns, as well as others, in Defense research and development. Alternate proposals provide a means to accomplish the two actions above. See also 1-903.

(b) *Small Business Sources.*

(1) Contracting officers, technical personnel, and small business specialists shall cooperatively seek and develop information on the technical competence of small business concerns for research and development contracts. Small business specialists shall regularly bring to the attention of contracting officers and technical personnel descriptive data, brochures, and other information as to small business concerns that are apparently competent to perform research or development work in fields in which the purchasing activity is interested.

(2) In order to cooperate with the Small Business Administration in carrying out its responsibility of assisting small business concerns to obtain contracts for research and development, contracting officers, technical personnel and small business specialists shall, upon request, provide to authorized SBA representatives information necessary to understand the Government's needs concerning research and development programs under consideration for specific future procurement actions. Normally, this information shall be provided to SBA representatives assigned to a purchasing activity, as early as practicable, and shall cover the Government's requirements for each proposed research and development procurement exceeding \$10,000. To the maximum extent feasible, SBA shall be afforded a minimum of 15 working days to provide pertinent information concerning qualified potential small business sources developed through its investigation of the capabilities of specific firms in the particular field of research and development covered by such procurements. Full evaluation shall be given to any such information in selecting qualified sources. Sources recommended by SBA for a specific procurement shall be solicited. Exception to the policy of providing SBA a minimum 15 working day interval to recommend additional qualified small research and development sources for a proposed procurement will be permitted only in those cases where the head of the purchasing activity or his designated representative advises the SBA representative that such action would result in unjustifiable delay.

(c) *Recommendations by Technical Personnel.* Recommendations as to which potential sources are technically qualified shall be made by cognizant technical personnel after review of the information obtained as a result of advance publicity (see 4-103), and, as appropriate, on the basis of discussion with potential sources (either singly or in a group), correspondence or suitable surveys.

(d) *Research and Development Pools.* See 1-302.3.

4-106.2 *Solicitation.*

(a) To reduce the number of technical proposals, the preparation of which can be both costly and wasteful of scientific or engineering manpower, contracting officers should request proposals only from sources which have been technically evaluated and found qualified to perform research or development in the specific field of science or technology involved. Where several sources are found

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established. Those proposals outside the competitive range are eliminated at this point and the offerors so notified. Limited discussions are then held with the remaining offerors on their cost/price proposals and any technical clarifications. Following such discussions, a proposal may be eliminated from further consideration and the offeror so notified when it is determined to be no longer in the competitive range.

(e) At the completion of technical and cost/price discussions, a common cut-off date for the receipt of final technical and cost/price proposals based upon those discussions is then established and the remaining offerors so notified. An evaluation is then made of each offeror's total proposal and a single offeror is normally selected for negotiation of a contract (see 4-107.5(e)(7)). In order to re-lease proposal teams at the earliest practical date, all offerors are notified of the contractor selected.

(f) A definitive contract is then negotiated with the selected offeror and contract award accomplished. These negotiations must be completed in a timely manner and must not involve changes in the Government's requirements or the contractor's proposal which would affect the basis for source selection. In the event a definitive contract cannot be awarded on a timely basis, negotiations may be terminated and a new source selection decision made.

4-107.2 *Applicability.* These procedures shall be used for all competitively negotiated research and development acquisitions except as provided in 4-107.3 or 4-107.4. They may, however, be used for any other acquisition when approved in accordance with Departmental procedures subject to the restrictions below. Acquisitions for which these procedures are not used shall follow the procedures of 3-805.

4-107.3 *Exceptions and Restrictions.*

(a) These procedures are not mandatory for R&D acquisitions which:

- (i) involve the exploration or formulation of design concept(s) as defined in DoDD 5000.1; or
- (ii) involve the selection of contractor(s) from among firms under contract for competitive hardware demonstration, validation, or full-scale engineering development.

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(b) These procedures shall not be used for any acquisitions which:

- (i) are negotiated pursuant to DAR 3-202;
- (ii) are solely for personal or nonpersonal services;
- (iii) are for architect-engineer services; or
- (iv) have an estimated value of less than two million dollars.

4-107.4 Waiver. Waiver of the requirement for use of these procedures in the competitive acquisition of defense systems designated as major pursuant to DoDD 5000.1 may be granted by the Secretary of the Department involved. For all other acquisitions, waiver shall be granted in accordance with Departmental instructions.

4-107.5 Procedures. Acquisitions subject to this paragraph shall be conducted in accordance with the following procedures:

- (a) Solicitations. Solicitations shall be developed in accordance with DAR 3-501 and shall include the following special requirements and instructions:
 - (1) A general statement explaining the concept and procedures to be used in the selection of a contractual source for the proposed acquisition.
 - (2) The relative importance of technical/system performance criteria.

(3) A notification that any proposals which are unrealistic in terms of technical or schedule commitments or unrealistically low in cost or price will be deemed reflective of an inherent lack of technical competence or indicative of failure to comprehend the complexity and risks of the proposed contractual requirements and may be grounds for the rejection of the proposal.

(4) A schedule of planned source selection events including, but not limited to, specific dates for the submission of both technical and cost/price proposals.

(5) Provisions requiring sequential submission of separate technical and cost/price proposals.

(6) Requirements for the technical proposal to include, where appropriate, identification of trade-offs among performance, production costs, operating and support costs, schedule and logistic support factors; and requirements for cost estimates

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ing the purchase request whether the offered delivery is acceptable. This procedure need not be followed when transportation time from the contractor's shipping point or time required for inquiry and reply make conformance impracticable. When multiple award schedules are involved, the purchasing office need query only one contractor after considering the requirements of 5-106.

(b) Similar Items. When specific supplies or services having the same general characteristics and intended use as those listed in a Federal Supply Schedule are needed for a special requirement, the following procedures shall apply.

(1) Non-emergency Requirements. When supplies or services are to be procured from other sources to satisfy a nonurgent requirement, the head of the office initiating the purchase request or his designated representative shall furnish to the purchasing office a signed statement identifying the supplies or services to be purchased. This statement shall include:

- (i) complete description of the item requested (descriptive literature such as cuts, illustrations, drawings and brochures which show the characteristics or construction of the item or explain its operation, should be furnished whenever possible in satisfaction of this requirement);
- (ii) comparison of price and pertinent technical differences between the item requested and the FSS item:
 - (A) inadequacies of the FSS item in performing required functions;
 - (B) advantages of the item requested, such as technical, economic, or other;
- (iii) quantity required;
- (iv) other pertinent data when applicable.

The purchasing office, prior to initiating purchase action, shall furnish such statement to the Commissioner, Federal Supply Service, General Services Administration, with a request that the requirement for using the Federal Supply Schedule item be waived. If such waiver is not granted, the case shall be referred to the Head of the Procuring Activity or his Deputy or to such higher authority as may be required by the Departments, and in the case of the Air Force, Commanders of AFLC Air Logistics Centers who shall make the final decision as to whether the nonschedule item will be purchased and shall promptly notify the Commissioner, Federal Supply Service, and the Purchasing Office, of the decision reached.

(2) Emergency Requirements. When supplies or services are to be procured from other sources and the situation will not permit the delay incident to following the normal channels of obtaining a waiver from the General Services Administration prior to purchase, such waiver shall not be requested. In emergency situations, the head of the office initiating the purchase request, or his designated representative, shall furnish to the purchasing office a signed statement identifying the supplies or services to be purchased, and explaining why similar items listed in the applicable Federal Supply Schedule will not meet the specific requirements. The purchasing office shall within 15 days of the date of purchase, furnish such statement to the Commissioner, Federal Supply Service, General Services Administration.

(c) Abnormal Requirements. When the requirements of the purchasing activity are (i) less than the minimum order limitation or (ii) in excess of the maximum order limitation provided in the applicable Federal Supply Schedule, use of the Schedule is not mandatory. However, where requirements for supplies or services

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exceed the maximum limitations of the applicable Schedule, but are within the DoD-GSA Interagency Purchase Assignments, those items will be procured through the General Services Administration. (See 5-1201.8.)

(d) *Authorization to Purchase Identical Item(s) When Available at Lower Price(s).* "Escape" provisions appear in certain Federal Supply Schedule contracts similar to the following:

"AUTHORIZATION TO PURCHASE IDENTICAL ITEM(S) WHEN AVAILABLE AT LOWER PRICE(S). When an ordering agency finds that an identical product (make and model number) or service is available from another source at a delivered price lower than the contract price, such agency is free to purchase such item at such lower price without violating the contract requirements. Those agencies that purchase items at lower prices are required to furnish a copy of the ordering document to: General Services Administration, Federal Supply Service, Code FCC, Washington, D.C. 20406."

When it is known that the conditions of such a provision can be met, the guidance of 5-103, pertaining to Federal Supply Schedules not mandatory upon DoD, shall be followed. GSA shall be informed of any non-schedule purchase as required by such "escape" provision. Contracting officers shall not solicit bids, or otherwise test the market solely for the purpose of seeking alternative sources to mandatory Federal Supply Schedules.

5-102.3 Applicability of Listed Federal Supply Schedules. Supplies and service covered by the Federal Supply Schedules listed herein are mandatory in whole or in part upon some element of the Department of Defense. Some of the Federal Supply Schedules listed include classes unrelated to the Federal Supply Group which identifies the Schedule. To aid in locating an item in the mandatory Schedules, the classes included in each Schedule have been listed. The Remarks column states exceptions to the mandatory provisions of the Schedule when applicable. (But see Part 2 of this section for mandatory use of GSA Term Contracts for maintenance, repair, rehabilitation and reclamation of personal property.) The Schedules should be checked for complete details concerning the exceptions.

(a) *Mandatory Nationally.*

FSC Group	Title of Schedule	Remarks
25	VEHICULAR EQUIPMENT COMPONENTS, Part I.	No Exceptions.
2520	Clutch Facings (Metallic).	
2530	Brake Linings (Metallic).	
2540	Tire Chains.	

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FSC Group	Title of Schedule	Remarks
26	PNEUMATIC TIRES AND INNER TUBES, Part II.	No Exceptions.
2610	Highway, Off-Highway and Industrial.	
26	PNEUMATIC TIRES, Part V.	No Exceptions.
2610	Motorcycle, Emergency/Pursuit and Agricultural.	
35	SERVICE AND TRADE EQUIPMENT, Part I.	No Exceptions.
3540	Sealing and Packaging Machinery.	
3590	Heat and Cold Process and Laminating Presses.	
35	SERVICE AND TRADE EQUIPMENT, Part III.	No Exceptions.
3550	Vending Machines.	
36	SPECIAL INDUSTRY MACHINERY, Part II.	Not Mandatory on DoD for the following items: 51-1, 51-1-1, 51-1-2, 51-1-3, 51-2, 51-3, 51-60, 51-61, 51-62, 51-104, 51-105, 51-106, 51-110, 51-110-1, 51-111, 51-112, 51-113, 51-114, 51-115, 51-125, 51-125-1, 51-126, 51-127, 51-146, 51-165, 51-166, 51-167 and 51-2017.
3610	Lithographic Printing Plates and Solutions; Masters, Spirit Duplication, Thermal Process; Printing Duplicating and Book Binding Equipment.	
3615	Pulverizing, Pulp and Shredding Machines.	
36	SPECIAL INDUSTRY MACHINERY, Part IV.	Not Mandatory on DoD for the following items: 51-4, 51-5, 51-6, 51-10, 51-11, 51-12, 51-28, 51-29, 51-30, 51-32, 51-43, 51-44, 51-46, 51-46, 51-47, 51-48, 51-52, 51-53, 51-54, 51-55, 51-55-1, 51-56 and 51-57.
3610	Copying Equipment, Supplies and Services.	

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procurement will not permit delay. However, telephonic clearances will be given by GSA in appropriate cases.); and

(vi) the requiring activity is outside the geographic area covered in the GSA Term Contract. (Normally, this area extends no more than a 15-mile radius from the contractor's location. Each contract specifies the area covered which may in some cases extend beyond that distance.)

5-206 Personal Property Covered Under Mandatory GSA Term Contracts. The items of personal property listed below are indicative of those for which General Services Administration sources are mandatory for maintenance, repair, rehabilitation, and reclamation services. They are not all inclusive. For detailed listings see the latest Federal Supply Catalog entitled "Guide to Sources of Supply and Service." Copies are available from GSA Regional Office and should be obtained by each installation and activity that may have need of such services. Copies of existing GSA Term Contract for these services are routinely forwarded by each GSA Regional Office to all affected Government activities within the respective regions.

Sample List of Items

Adders, calculators, and comptometers
 Fire extinguishers (Industrial and Commercial)
 Furniture (Office, household, quarters,
 institutional and hospital type)
 Household appliances
 Mattresses
 Motors and generators (Industrial and Commercial)
 Tires (Except for Aircraft)
 Typewriters (Manual and electric)
 Watches and clocks (Industrial and Commercial)

5-207 Order for Services. Orders for maintenance, repair, rehabilitation, or reclamation services from General Services Administration sources shall be placed as follows:

(a) *GSA Repair Facility.* A delivery order on Order for Supplies or Services/Request for Quotations (DD Form 1155) (see 3-608.6) shall be submitted to the General Services Administration regional office which normally serves the procuring activity. Each delivery order which is subject to fiscal year limitations necessitating GSA procurement action to be completed not later than June 30 shall contain a notation to that effect.

(b) *Commercial Sources.* Delivery orders on DD Form 1155 will be placed directly with contractors pursuant to GSA Term Contracts.

(1) *Inspection and Acceptance.* Arrangements for inspection and acceptance shall be the responsibility of the ordering agency, except when the GSA Term Contract specifically provides for source inspection by GSA.

(2) *Default Terminations.* The GSA contracting office shall be notified each time an order is terminated for default in accordance with contract provisions.

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(d) Qualifying country is any country defined in (a), (b), and (c) above.

(e) United States means the States, the District of Columbia, Puerto Rico and possessions (see 1-201.12). It does not include leased bases or trust territories.

6-001.6 Offer.

(a) Defense cooperation country offer means an offer of a defense cooperation country end product including transportation to destination.

(b) Domestic offer means an offer of a domestic end product, including transportation to destination.

(c) FMS/offset arrangement country means an offer of a FMS/offset arrangement country end product, including transportation to destination.

(d) Foreign offer means an offer that is not a domestic offer. It includes transportation to destination and duty (whether or not a duty-free entry certificate may be issued).

(e) Participating country offer means an offer of a participating country end product including transportation to destination.

6-001.7 Concern.

(a) Domestic concern means an incorporated concern incorporated in the United States or an unincorporated concern having its principal place of business in the United States. (In the context of this Section, "concern" refers to a prospective or actual contractor. Thus, a contract with a foreign subsidiary or foreign branch or business office of a U.S. corporation would not be a contract with a domestic concern. Conversely, a contract executed by a foreign salesman or agent on behalf of a domestic concern would nevertheless be a contract with a domestic concern since the basic contractual and legal responsibility resides with the domestic concern.)

(b) Foreign concern means a concern that is not a domestic concern.

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Part 1--Buy American Act--Supply Contracts

6-100 Scope of Part. This Part implements the Buy American Act (41 U.S.C. 10a-d) and the policies set forth in Executive Order 10582, dated 17 December 1954, with respect to supply contracts and to services which require the furnishing of end items (e.g., leasing of equipment). The Buy American Act does not otherwise apply to the purchaser of services.

6-101 Reserved.

6-102 General.

6-102.1 Buy American Act Requirements. Except as provided in 6-103, the Buy American Act requires that in the acquisition of supplies, only domestic end products shall be acquired for public use in the United States. In determining whether an end product is a domestic end product, only the end product and its components shall be considered. The Act and its implementation by E.O. 10582 and the Balance of Payments Program require the use of evaluation factors specified in 6-104.4.

6-102.2 Balance of Payments Program Requirements.

(a) The 50 percent evaluation factor in favor of domestic offers, implemented in 6-104.4, is an interim measure designed to alleviate the impact of DoD expenditures on the Nation's balance of international payments. The Department of Defense does not expect to use the 50 percent factor beyond the time when the U.S. balance of payments deficit is corrected.

(b) Although the evaluation procedures in 6-104.4 reduce overseas dollar expenditures resulting from defense acquisition at an acceptable increase in budgetary costs, this result is an average and overall result rather than one which precisely obtains in each case. This is so because, both under the Buy American Act and as a matter of administrative practicability, items are classified absolutely as "foreign" or "domestic" and varying degrees within each class are not recognized. However, deviations (see 1-109) from the evaluation procedures of 6-104.4 should be considered for acquisitions over \$250,000 when it is anticipated that the low domestic offer will involve relatively substantial foreign expenditures or that the low foreign offer will involve relatively substantial domestic expenditures. Any request for such a deviation should be made sufficiently in advance of solicitation to permit the solicitation to describe the evaluation procedure that will be used. Such deviations require the advance approval of the Under Secretary of Defense Research and Engineering (USDRE) or his designee.

6-102.3 Acquisition From, Through, or For Other Government Agencies. In acquisitions from or through other Government agencies, responsibility for compliance with the Buy American Act and Balance of Payments Program evaluation procedures (see 6-104.4) is as follows:

(a) The General Services Administration has responsibility for compliance with the Buy American Act for foreign end items acquired by Defense activities from GSA stores depots, direct purchases for such activities, or purchases from a mandatory Federal Supply Schedule which does not include any domestic source for that item. Balance of Payments evaluation procedures are not applicable to these transactions.

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under the subcontract subordinate to the rights of the Government to require delivery of such property to it in the event of default by the Contractor under this contract or in the event of the bankruptcy or insolvency of the subcontractor.

(3) The Government agrees that any proceeds received by it from property to which it has acquired title by virtue of such provisions in any subcontract shall be applied to reduce the amount of unliquidated progress payments made by the Government to the Contractor under this contract. In the event the Contractor fully liquidates such progress payments made by the Government to him hereunder and there are progress payments to any subcontractors which are unliquidated, the Contractor shall be subrogated to all the Government's rights by virtue of such provisions in the subcontract or subcontracts involved as if all such rights had been thereupon assigned and transferred to the Contractor.

(4) The billings described in (j)(1)(ii) above shall be paid promptly by the Contractor in the ordinary course of business, not later than a reasonable time after payment of equivalent amounts by the Government to the Contractor.

(5) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to offer and provide progress payments to those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in paragraph 503 of Appendix E of the Defense Acquisition Regulation, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

(End of Clause)

*For lower percentages for this paragraph (b) and for (a)(3) (iii) and (a)(4), see E-512.1.

**A progress payment percentage of 95 percent (and applicable liquidation rate) is applicable to Foreign Military Sales (FMS) contracts and to the FMS portion of combined procurements. See E-503.2.

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7-104.36 *Consideration for Affected Employees in the Redwood National Park Area.* In accordance with 1-332, contracts awarded prior to 30 September 1984 shall contain the following clause.

CONSIDERATION FOR AFFECTED EMPLOYEES IN THE REDWOOD NATIONAL PARK AREA (1980 AUG)

(a) The Contractor agrees, consistent with the requirements of Public Law 95-250, The Redwood National Park Expansion Act, that until September 30, 1984, all suitable employment openings of the Contractor which occur pursuant to the execution of the performance of this contract, and which are located primarily in the northern California counties of Humboldt, Del Norte, Trinity, Siskiyou and Mendocino, shall be listed at the nearest California Office of the State Employment Development Department (EDD).

(b) Listing of employment openings with the EDD pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the obligation to accept referrals of affected Redwood employees. The listing of employment openings does not require the hiring of any particular job applicant, but does require hiring from that group of affected employee job applicants who already possess the skills and training necessary to perform the job or who could reasonably be expected to gain such skills after appropriate training of reasonable duration. Nothing herein is intended to relieve the Contractor from any requirements in executive orders or regulations regarding nondiscrimination in employment.

(c) The provisions of paragraph (b) apply to a particular opening once an employer decides to consider applicants outside of its own organization or employer-union agreement for that opening.

(d) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(e) In the event of the Contractor's noncompliance with the requirements of this clause, actions for non-compliance may be taken in accordance with rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(f) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract arrangement

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that the Contractor is bound by the terms of the Redwood National Park Act, as amended, and is committed to give full consideration to appropriate vacancies.

(g) The Contractor will include the provisions of this clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or purchase order as the Secretary of Labor or his designee may direct to enforce such provisions, including action for noncompliance.

(End of clause)

7-104.37 Required Source for Jewel Bearings and Related Items. In accordance with 1-2207.2, insert the following clause:

REQUIRED SOURCE FOR JEWEL BEARINGS AND RELATED ITEMS (1977 NOV)

(a) This clause is applicable only if supplies furnished under this contract contain jewel bearings or related items as described below.

(b) For the purpose of this clause:

(1) *Jewel Bearing* means a piece of synthetic corundum (sapphire or ruby) of any shape, except a phonograph needle, which has one or more polished surfaces and the function of which is to provide a supporting surface or low friction contact area for revolving, oscillating or sliding parts in an instrument, mechanism, subassembly or part. A jewel bearing may be either unmounted or mounted into a ring or bushing. Examples of types of jewel bearings are: watch hole—olive, watch hole—straight, pallet stones, roller jewels (jewel pins), endstones (caps), vee (cone) jewels, instrument rings, cup, double cups.

(2) *Related Item* means a piece of synthetic corundum (sapphire or ruby) which satisfies the following requirements:

- made from material produced by the Verneuil flame fusion process;
- a geometric shape (other than a jewel bearing) up to a maximum of one inch in any dimension;
- requires fabrication techniques to include extremely close tolerances and highly polished surfaces identical to those involved in the manufacture of jewel bearings.

A related item may be unmounted or mounted in a retaining or supporting structure. Basic shapes and terminology commonly used for related items are: window, nozzle, guide, knife edge, knife edge plate, insulator domed pin, slotted insulator, sphere, ring gauge, spacer, disc, valve seat, rod, vee groove, D-shaped insulator, notched plate.

(3) *Price List* means the official United States Government Jewel Bearing Price List for jewel bearings which are produced by the William Langer Jewel Bearing Plant in Rolla, North Dakota, published periodically by the General Services Administration.

(4) *Plant* means the Government-owned William Langer Plant, Rolla, North Dakota, 58367 (701 477-3193).

(c) All jewel bearings and related items, in the quantities and of the types and sizes (including tolerances), required to produce the end items to be supplied under this contract shall be procured from the following sources in the order of priority stated. Jewel bearings must be procured from the Plant; related items must be procured from (i) a domestic source of manufacture, including the Plant, or, if those sources cannot supply the item(s), then (ii) from a foreign source.

(1) Orders for jewel bearings or related items may be placed with the Plant for individual contracts, or they may be placed for the requirements of a combination of contracts. Additionally, the Contractor may place annual stock orders of jewel bearings or related items. When

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the prime or subcontractor purchases jewel bearings or related items to fulfill requirements for an individual contract, the prime contract number shall be placed on all purchase orders with the Plant.

(2) Orders for jewel bearings and related items listed in the price list should reference the most recent Plant price list and provide its date.

(3) Requests for quotation on jewel bearings and related items not listed in the price list should be accompanied by drawings of such jewel bearings and related items and should be forwarded to the Plant as soon as possible to insure their prompt quotation or rejection of the order.

(d) The Plant may reject the Contractor's order at the option of the Plant. Unless rejection is caused by reason of currently outstanding excessive and overdue indebtedness to the Plant by the Contractor as determined by the Plant, an equitable adjustment shall be made in the contract price or delivery schedule, or both. The Contractor shall promptly notify the ACO of the rejection of his or any subcontractor's purchase order, in whole or in part, by the Plant for whatever reason, by providing the ACO a copy of the Plant rejection document. The same procedure shall apply with regard to orders for related items rejected by any domestic source of manufacture.

(e) The Contractor agrees to insert this clause and the prime contract number, including this paragraph (e), in every subcontract unless he has positive knowledge that the subassembly, component, or part being purchased does not contain jewel bearings or related items.

(End of clause)

7-104.38 Required Sources for Miniature and Instrument Ball Bearings. In accordance with 1-2207.3, insert the following clause:

REQUIRED SOURCES FOR MINIATURE AND INSTRUMENT BALL BEARINGS (1971 JUL)

(a) For the purpose of this clause:

- "miniature and instrument ball bearings" are all rolling contact ball bearings with a basic outside diameter (exclusive of flange diameters) of 30 millimeters or less, irrespective of material, tolerance, performance or quality characteristics; and
- "domestic manufacture" means manufacture in the United States or Canada and, when ball bearing assembly is involved, all components of the bearing must also have been manufactured in the United States or Canada.

(b) The Contractor agrees that end items and components thereof delivered under this contract shall contain miniature and instrument ball bearings that are of domestic manufacture only.

(c) The requirement for delivery in (b) above may be waived in whole or in part by the Contracting Officer when such waiver is determined to be in the Government's interest. In the event a waiver is granted, the Contractor agrees to acquire for non-Government use, domestically manufactured miniature and instrument ball bearings of a like quantity and type.

(d) The Contractor agrees to retain until the expiration of three years from the date of final payment under this contract and to make available during such period, upon request of the Contracting Officer, records showing compliance with this clause.

(e) The Contractor agrees to insert this clause, including this paragraph (e), in every subcontract and purchase order issued in performance of this contract unless he knows that the item being purchased contains no miniature or instrument ball bearings.

(End of clause)

7-104.39 Interest. In accordance with E-620, insert the following clause:

Any change, addition, or deletion to this clause is subject to the prior approval requirements outlined in Appendix E, Part 2

INTEREST (1972 MAY)

Notwithstanding any other provision of this contract, unless paid within 30 days all amounts that become payable by the Contractor to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code) shall bear interest from the date due until paid and shall be subject to adjustments as provided by Part 6 of Appendix E of the Armed Services Procurement Regulation, as in effect on the date of this contract. The interest rate per annum shall be the interest rate in effect which has been established by the Secretary of the Treasury pursuant to Public Law 92-41; 85 STAT 97 for the Renegotiation Board, as of the date the amount becomes due as herein provided. Amounts shall be due upon the earliest one of (i) the date fixed pursuant to this contract; (ii) the date of the first written demand for payment, con-

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(f) The clause:

GOVERNMENT DELAY OF WORK (1968 SEP)

(a) If the performance of all or any part of the work is delayed or interrupted by an act of the Contracting Officer in the administration of this contract, which act is not expressly or impliedly authorized by this contract, or by his failure to act within the time specified in this contract (or within a reasonable time if no time is specified), an adjustment (excluding profit) shall be made for any increase in the cost of performance of this contract caused by such delay or interruption and the contract modified in writing accordingly. Adjustment shall be made also in the delivery or performance dates and any other contractual provision affected by such delay or interruption. However, no adjustment shall be made under this clause for any delay or interruption (i) to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor; or (ii) for which an adjustment is provided or excluded under any other provision of this contract.

(b) No claim under this clause shall be allowed (i) for any costs incurred more than twenty (20) days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved; and (ii) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such delay or interruption, but not later than the date of final payment under the contract.

(End of clause)

7-104.78 *Reserved.*

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LIMITATION OF LIABILITY - MAJOR ITEMS (1979 MAR)

(a) Except as provided below and notwithstanding any other provision of this contract, the Contractor shall not be liable for loss of or damage to property of the Government (including the supplies delivered under this contract) occurring after acceptance of the supplies delivered under this contract and resulting from any defects or deficiencies in such supplies.

(b) The foregoing limitations shall not apply when the defects or deficiencies in such supplies or the Government acceptance of such supplies resulted from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who have supervision or direction of:

- (i) all or substantially all of the Contractor's business; or
- (ii) all or substantially all of the Contractor's operations at any one plant or separate location, in which this contract is being performed; or
- (iii) a separate and complete major industrial operation in connection with the performance of this contract.

(c) Notwithstanding paragraph (a) above, if the Contractor carries insurance or has established a reserve for self-insurance covering liability for damages or losses suffered by the Government through purchase or use of the contract supplies required to be delivered to the Government under this contract, the Contractor shall be liable to the Government for damages or losses to property of the Government occurring after acceptance of the supplies delivered to the Government under this contract and resulting from any defects or deficiencies in such supplies to the extent of such insurance or reserve for self-insurance.

(d) This clause does not diminish the Contractor's obligation, to the extent otherwise arising under this contract, relating to correction, repair, replacement or other relief for any defect or deficiency in supplies delivered under this contract.

(e) The provisions of this clause shall not limit or otherwise affect the Government's rights pursuant to the following listed clauses, if included in this contract:

GROUND AND FLIGHT RISKS,
AIRCRAFT FLIGHT RISK,
GOVERNMENT PROPERTY, and
WARRANTY OF TECHNICAL DATA.

(f) In all subcontracts hereunder, except those covered by (g) below, the Contractor shall either:

- (i) insert, with the advance written consent of the Contracting Officer, the substance of this clause including this paragraph (f) suitably altered to reflect the relationship of the contracting parties; or
- (ii) insert the substance of the clause in 7-104.45(a), suitably altered to reflect the relationship of the contracting parties.

(g) In subcontracts for both major items for which this clause is appropriate, and other end items for which the clause in 7-104.45(a) is appropriate, the substance of both clauses shall be included, with the advance written consent of the Contracting Officer. The Contractor shall identify high unit cost items by line item and include the following preamble to this clause:

(The provisions of this clause shall apply only to those items identified in this contract as being subject to this clause.)

(End of clause)

(b) In contracts for the purchase of both major items (see 1-330) for which the clause in (a) above is appropriate, and other contract end items for which the clause in 7-104.45(a) is appropriate, both clauses shall be included. The Contracting Officer shall identify high unit cost items by line item and include the following preamble to the Limitation of Liability - Major Items clause:

(The provisions of this clause shall apply only to those items identified in this contract as being subject to this clause.)

7-104.79

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7-104.79 *Safety Precautions for Ammunition and Explosives.*

(a) The following clause shall be inserted in all contracts which may involve the development, testing, storage, manufacture, modification, renovation, demilitarization, packaging, transportation, handling, disposal, inspection, repair or any other use of ammunition and explosives. The terms "ammunition" and "explosives" exclude inert components containing no explosives, active chemicals or pyrotechnics. (See 1-323).

SAFETY PRECAUTIONS FOR AMMUNITION AND EXPLOSIVES (1970 SEP)

(a) As used in this clause:

- (i) "ammunition" and "explosives" shall have the meaning set forth in DoD Contractors' Safety Manual for Ammunition, Explosives, and Related Dangerous Material, DoD 4145.26M;
- (ii) "accident" means an event causing damage or injury involving ammunition or explosives which results in one or more of the following:
 - (1) one or more fatalities;

7-204.33

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7-204.34 *Multi-Year Procurement*. In accordance with 1-322.5, insert the clauses in 7-104.47.

7-204.35 *New Material*. In accordance with 1-1208, insert the clause in 7-104.48.

7-204.36 *Aircraft, Missile, and Space Vehicle Accident Reporting and Investigation*. In accordance with 7-104.81, insert the clause therein.

7-204.37 *Reserved*.

7-204.38 *Special Test Equipment*. Insert the clause in 7-104.26 in negotiated contracts which provide that the contractor will acquire special test equipment for the Government but do not specify the items to be acquired (see 13-306.3(c)).

7-204.39 *First Article Approval*.

(a) In accordance with 1-1904, insert the clause in 7-104.55(a) with appropriate modifications.

(b) In accordance with 1-1904, insert the clause in 7-104.55(b) with appropriate modifications.

7-204.40 *Order of Precedence*. In accordance with 3-501(b)Sec.C(xxxi), insert the clause in 7-2003.41.

7-204.41 *United States Products and Services (Balance of Payments Programs)*. In accordance with 6-806.4, insert the clause in 7-2003.53.

7-204.42 *Identification of Expenditures in the United States*. In accordance with 6-807, insert the clause in 7-104.58.

7-204.43 *Right of First Refusal for Employment Openings*. In accordance with 4-1202, insert the clause in 7-104.104.

7-204.44 *Material Inspection and Receiving Report*. Insert the clause in 7-104.62 except in negotiated subsistence procurements and contracts for tanker/barge shipments of bulk petroleum products.

7-204.45 *Recovery of Nonrecurring Costs on Foreign Sales of Major Defense Equipment*. Insert the clause in 7-104.64, as appropriate.

7-204.46 *Use of Excess and Near-Excess Currency*. In accordance with the requirements of 6-1110, insert the clause in 7-104.66.

7-204.47 *Production Progress Report*. In accordance with the requirements of 25-202, insert the clause in 7-104.51.

7-204.48 *Procurement of Miniature and Instrument Ball Bearings*. In accordance with 1-2207.3, insert the clause in 7-104.38.

7-204.49 *Safety Precautions for Ammunition and Explosives*. In accordance with 7-104.79, insert the clause therein.

7-204.50 *Notice of Radioactive Materials*. In accordance with 7-104.80, insert the clause therein.

7-204.51 *Procurement of Precision Components for Mechanical Time Devices*. In accordance with 1-2207.4, insert the clause in 7-104.46.

7-204.52 *Reserved*.

7-204.53 *Cost Accounting Standards*. In accordance with 3-1204, insert the clauses in 7-104.83.

7-204.54 *Contractor's Identification of Changes*. In accordance with 26-802, insert a clause as provided in 7-104.86.

7-204.54

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7-204.55 *Cost/Schedule Control Systems*. In accordance with 1-331(h) and 3-501(b) Section C (xiv), insert the clause in 7-104.87.

7-204.56 *Engineering Change Proposals (ECP's)*. In accordance with 26-205, insert the clause in 7-104.89.

7-204.57 *Change Order Accounting*. In accordance with 26-205, insert the clause in 7-104.90.

7-204.58 *Time of Delivery*. Insert a clause in accordance with 7-104.92.

7-204.59 *Capture and Detention*. In accordance with 10-406, insert the clause in 7-104.94.

7-204.60 *Preference For United States Flag Air Carriers*. In accordance with 1-336.1(b), insert the clause in 7-104.95.

7-204.61 *Submission of Commercial Freight Bills to the General Services Administration for Audit*. In accordance with 19-403.2(c), insert the following clause

SUBMISSION OF COMMERCIAL FREIGHT BILLS TO THE GENERAL SERVICES ADMINISTRATION FOR AUDIT (1976 FEB)

When transportation costs are reimbursed to the Contractor, the Contractor is required to furnish to the

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Chester A. Arthur Building

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(or to the ACO if specified) individual commercial freight bills (or equivalent shipment data and evidence of payment) for transportation charges in excess of \$500.00.

(End of clause)

7-204.62 *Privacy Act*. In accordance with 1-327.1, insert the clause in 7-104.96.

7-204.63 *Preference for Domestic Specialty Metals*. In accordance with 7-104.93, insert the applicable clause therein.

7-204.64 *Exclusionary Policies and Practices of Foreign Governments*. In accordance with 6-1312, insert the clause in 7-104.97.

7-204.65 *Hazardous Material Identification and Material Safety Data*. In accordance with 1-323.2(b), insert the clause in 7-104.98.

7-204.66 *Reserved*.

7-204.67 *Reserved*.

7-204.68 *Offset Arrangement*. In accordance with 6-1310.3(d), insert the clause in 7-104.105.

7-204.69 *Qualifying Country Sources as Subcontractors*. In accordance with 6-1403.4, insert the clause at 7-104.106.

7-204.69

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7-205 Additional Clauses. The following clauses shall be inserted in cost-reimbursement type supply contracts in accordance with Departmental procedures when it is desired to cover the subject matter thereof in such contracts.

7-205.1 *Alterations in Contract*. The clause in 7-105.1(a) may be inserted.

7-205.2 *Approval of Contract*. The clause in 7-105.2 may be inserted.

7-205.3 *Title and Risk of Loss*. Insert the clause in 7-103.6.

7-205.4 *Bill of Materials*. In accordance with 7-105.6, insert the clause therein.

7-205.5 *Reserved*.

7-205.6 *Stop Work Orders*. The clause in 7-105.3, if modified by changing (i) the words "the 'Termination for Convenience' clause of this contract" to "the 'Termination' clause of the contract" and (ii) the words "an equitable adjustment shall be made in the delivery schedule or contract price, or both" to "an equitable adjustment shall be made in the delivery schedule, the estimated cost, the fee, or a combination thereof, and in any other provisions of the contract that may be affected," is authorized for use in any cost-reimbursement type contract under the criteria and in accordance with the instructions in 7-105.3.

7-205.7 *Warranty of Technical Data*. In accordance with 1-324.6, insert the clause in 7-104.9(o).

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7-303.29 *Subcontractor Cost and Pricing Data*. In accordance with 7-104.4.2, insert the appropriate clause therein.

7-303.30 *United States Products (Military Assistance Program)*. In accordance with 6-703.4, insert the clause in 7-2003.51.

7-303.31 *Value Engineering*. Subject to the limitations in 1-1702, insert the appropriate clause(s) in 7-104.44 as applicable.

7-303.32 *Management Systems Requirements*. In accordance with 16-827.1, insert the clause in 7-104.50.

7-303.33 *Non-Use of Foreign Flag Vessels Engaged in Cuban and North Vietnam Trade*. In accordance with 1-1404 and 1-1410, insert the appropriate clause in 7-104.19.

7-303.34 *New Material*. In accordance with 1-1208, insert the clause in 7-104.48.

7-303.35 *Limitation of Liability*. In accordance with 1-330(b), insert the appropriate clause in 7-104.45.

7-303.36 *Bills of Lading Covering Shipments From Contractor's Plant*. In accordance with the requirements of 19-217.1(a), insert the clause in 7-103.25.

7-303.37 *Special Test Equipment*. Insert the clause in 7-104.26 in negotiated contracts which provide that the contractor will acquire special test equipment for the Government but do not specify the items to be acquired (see 13-306.3(c)).

7-303.38 *Contract Schedule Subline Items Not Separately Priced*. In accordance with 20-304.2(c)(ii), insert the clause in 7-104.7.

7-303.39 *First Article Approval*. In accordance with 1-1904, insert the appropriate clause in 7-104.55.

7-303.40 *Order of Precedence*. In accordance with 3-501(b)(b)Sec.C(xxi), insert the clause in 7-2003.41.

7-303.41 *United States Products and Services (Balance of Payments Program)*. In accordance with 6-806.4, insert the clause in 7-2003.53.

7-303.42 *Identification of Expenditures in the United States*. In accordance with 6-807, insert the clause in 7-104.58.

7-303.43 *Right of First Refusal for Employment Openings*. In accordance with 4-1202, insert the clause in 7-104.104.

7-303.44 *Care of Laboratory Animals*. In compliance with law and in furtherance of the Department of Defense policy that all aspects of investigative programs involving the use of experimental or laboratory animals be humanely conducted in accordance with recognized principles, the following clause shall be included in all contracts awarded in the United States, its possessions, and Puerto Rico, which may involve the use of such animals.

CARE OF LABORATORY ANIMALS (1974 APR)

(a) Before undertaking performance of any contract involving the use of laboratory animals, the Contractor shall register with the Secretary of Agriculture of the United States in accordance with Section 6, P.L. 89-544, Laboratory Animal Welfare Act, 24 August 1966 as amended by P.L. 91-579, Animal Welfare Act of 1970, 24 December 1970. The Contractor shall furnish evidence of such registration to the contracting officer.

(b) The Contractor shall acquire animals used in research and development programs from a dealer licensed by the Secretary of Agriculture, or from exempted sources in accordance with the Public Laws enumerated in (a) above.

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7-303.44

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(c) In the care of any live animals used or intended for use in the performance of this contract, the Contractor shall adhere to the principles enunciated in the *Guide for Care and Use of Laboratory Animals* prepared by the Institute of Laboratory Animal Resources, National Academy of Sciences—National Research Council, and in the United States Department of Agriculture's regulations and standards issued under the Public Laws enumerated in (a) above. In case of conflict between standards, the higher standard shall be used. Contractor reports on portions of the contract in which animals were used shall contain a certificate stating that the animals were cared for in accordance with the principles enunciated in the *Guide for Care and Use of Laboratory Animals* prepared by the Institute of Laboratory Animal Resources, NAS-NRC, and/or in the regulations and standards as promulgated by the Agricultural Research Service, USDA, pursuant to the Laboratory Animal Welfare Act of 24 August 1966, as amended (P.L. 89-544 and P.L. 91-579).

NOTE: The Contractor may request registration of his facility and a current listing of licensed dealers from the Regional Office of the Animal and Plant Health Inspection Service (APHIS), USDA, for the region in which his research facility is located. The location of the appropriate APHIS Regional Office as well as information concerning this program may be obtained by contacting the Senior Staff Officer, Animal Care Staff, USDA/APHIS, Federal Center Building, Hyattsville, Maryland, 20782.

(End of clause)

7-303.45 *Recovery of Nonrecurring Costs on Non-US Government Sales of Defense Equipment.* In accordance with 4-110(d), insert the clauses in 7-104.64, as appropriate.

7-303.46 *Insurance.* In accordance with 10-405, insert the clause in 7-104.65.

7-303.47 *Use of Excess and Near-Excess Currency.* In accordance with 6-1110, insert the clause in 7-104.66.

7-303.48 *Aircraft, Missile and Space Vehicle Accident Reporting and Investigation.* In accordance with 7-104.81, insert the clause therein.

7-303.49 *Procurement of Miniature and Instrument Ball Bearings.* In accordance with 1-2207.3, insert the clause in 7-104.38.

7-303.50 *Equal Opportunity Pre-Award Clearance of Subcontracts.* In accordance with 23-201.4, insert the clause in 7-104.22.

7-303.51 *Reserved.*

7-303.52 *Procurement of Precision Components for Mechanical Time Devices.* In accordance with 1-2207.4, insert the clause in 7-104.46.

7-303.53 *Reserved.*

7-303.54 *Rights in Data.* In accordance with 7-104.9 insert the appropriate clause, or clauses, therein.

7-303.55 *Cost Accounting Standards.* In accordance with 3-1204, insert the clauses in 7-104.83.

7-303.56 *Contractor's Identification of Changes.* In accordance with 26-802, insert a clause as provided in 7-104.86.

7-303.57 *Cost Schedule Control Systems.* In accordance with 1-331(h) and 3-501(b) Section C (xiv), insert the clause in 7-104.87.

7-303.58 *Engineering Change Proposals (ECP's).* In accordance with 26-205, insert the clause in 7-104.89.

7-303.59 *Change Order Accounting.* In accordance with 26-205, insert the clause in 7-104.90.

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Secretary and approved by the Contracting Officer, for in contracts with the Department of the Navy, The Department). When the Government has assumed liability for subcontracts, the term "Contractor" in this paragraph (b) shall include subcontractors.

(c) No payment shall be made by the Government under this clause unless the amount thereof shall first have been certified to be just and reasonable by the Secretary or his representative designated for such purpose. The rights and obligations of the parties under this clause shall survive the termination, expiration, or completion of this contract. The Government may discharge its liability under this paragraph by making payments to the Contractor or directly to parties to whom the Contractor may be liable.

(d) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract, the same provisions as those in this clause, whereby the Contractor shall indemnify the subcontractor against any risk defined in this contract to be unusually hazardous or nuclear in nature. Such a subcontract shall provide the same rights and duties, and the same provisions for notice, furnishing of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this clause. The Contracting Officer may also approve similar indemnification of subcontractors at any tier upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this clause shall provide for the prompt notification to the Contracting Officer of any claim or action against, or of any loss by, the subcontractor which is covered by this clause, and shall entitle the Government at its election, to control or assist in the settlement or defense of any such claim or action. The Government shall indemnify the Contractor with respect to his obligations to subcontractors under subcontract provisions thus approved by the Contracting Officer. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractor may be liable.

(e) If insurance coverage or other financial protection program approved by the Secretary is reduced, the liability of the Government under this clause shall not be increased by reason of such reduction.

(f) The Contractor shall (i) promptly notify the Contracting Officer of any claim or action against, or of any loss by, the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this clause, (ii) furnish evidence or proof of any claim, loss or damage covered by this clause in the manner and form required by the Government, and (iii) immediately furnish to the Government copies of all pertinent papers received by the Contractor. The Government may direct, control or assist in the settlement or defense of any such claim or action. The Contractor shall comply with the Government's directions, and execute any authorizations required in regard to such settlement or defense.

(End of clause)

7-303.63 *Preference for United States Flag Air Carriers.* In accordance with 1-336.1(b), insert the clause in 7-104.95.

7-303.64 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-303.65 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-303.66 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the clause in 7-104.97.

7-303.67 *Hazardous Material Identification and Material Safety Data.* In accordance with 1-323.2(b), insert the clause in 7-104.98.

7-303.68 *Reserved.*

7-303.69 *Reserved.*

7-303.70 *Limitation on Sales Commissions and Fees for Foreign Governments.* In accordance with 6-1305.6, insert the clause in 7-104.107.

7-304 *Additional Clauses.* The following clauses shall be inserted in fixed-price research and development contracts in accordance with Departmental procedures when it is desired to cover the subject matter thereof.

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7-304.1 *Changes.*

ON PROVISIONS

CHANGES (1965 JUN)

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packing; and (iii) place of inspection, delivery, or acceptance. If any such change causes an increase or decrease in the cost of, or the time required for performance of, this contract, or otherwise affects any other provisions of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made (i) in the contract price or time of performance, or both, and (ii) in such other provisions of the contract as may be so affected, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change; provided, however, that the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes". However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(End of clause)

In the foregoing clause, the period of "thirty (30) days" within which any claim for adjustment must be asserted, may be varied in accordance with Departmental procedures. In accordance with 10 U.S.C. 2306(f), prior to the pricing of any change order that is expected to exceed \$100,000, except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the contracting officer shall require the contractor to furnish a Certificate of Current Cost or Pricing Data (see 3-807.6) and shall assure the contract includes or is modified to include a defective pricing data clause (see 7-104.29).

7-304.2 *Alterations in Contract.* The clause in 7-105.1(a) may be inserted.

7-304.3 *Approval of Contract.* The clause in 7-105.2 may be inserted.

7-304.4 *Bill of Materials.* In accordance with 7-105.6, the clause set forth therein may be inserted.

7-304.5 *Notice of Shipments.* The clause in 7-105.4 may be inserted.

7-304.6 *Reports of Work.* In accordance with 7-404.6, the clause set forth therein may be inserted.

7-304.7 *Liquidated Damages.* In accordance with 1-310, the clause in 7-105.5 may be inserted.

7-304.8 *Reserved.*

7-304.9 *Reserved.*

7-304.10 *Warranties.* In accordance with 1-324, an appropriate warranty may be inserted.

7-304.11 *Stop Work Orders.* In accordance with 7-105.3, the clause set forth therein may be inserted.

7-304.12 *Term of Performance or Delivery Date.* Insert a clause in accordance with 1-305.5. Clauses in 7-104.92 shall be used as a guide.

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7-403.42 *Recovery of Nonrecurring Costs on Foreign Sales of Major Defense Equipment.* In accordance with 4-109(a), insert the applicable clause in 7-104.64.

7-403.43 *Use of Excess and Near Excess Currency.* In accordance with 6-1110, insert the clause in 7-104.66.

7-403.44 *Limitation of Liability.* In accordance with 1-330, insert the appropriate clause in 7-104.45(a) or 7-204.33.

7-403.45 *Aircraft, Missile, and Space Vehicle Accident Reporting and Investigation.* In accordance with 7-104.81, insert the clause therein.

7-403.46 *Procurement of Miniature and Instrument Ball Bearings.* In accordance with 1-2207.3, insert the clause in 7-104.38.

7-403.47 *Procurement of Precision Components for Mechanical Time Devices.* In accordance with 1-2207.4, insert the clause in 7-104.46.

7-403.48 *Reserved.*

7-403.49 *Rights in Data.* In accordance with 7-104.9 insert the appropriate clause, or clauses, therein.

7-403.50 *Cost Accounting Standards.* In accordance with 3-1204, insert the clauses in 7-104.83.

7-403.51 *Contractor's Identification of Changes.* In accordance with 26-802, insert a clause as provided in 7-104.86.

7-403.52 *Cost/Schedule Control Systems.* In accordance with 1-331(h) and 3-501(b) Section C (xlv), insert the clause in 7-104.87.

7-403.53 *Engineering Change Proposals (ECP's).* In accordance with 26-205, insert the clause in 7-104.89.

7-403.54 *Change Order Accounting.* In accordance with 26-205, insert the clause in 7-104.90.

7-403.55 *Capture and Detention.* In accordance with 10-406, insert the clause in 7-104.94.

7-403.56 *Indemnification Under 10 USC 2354.* In accordance with 10-701, insert the following clause.

INDEMNIFICATION UNDER 10 U.S.C. 2354 -- COST REIMBURSEMENT (1974 APR)

(a) Pursuant to the authority of 10 U.S.C. 2354, notwithstanding any other provision of this contract, but subject to the following paragraphs of this clause, the Government shall hold harmless and indemnify the Contractor against:

- (i) claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, bodily injury (including sickness or disease), or loss of, damage to, or loss of use of property;
- (ii) loss of or damage to property of the Contractor, and loss of use of such property, but excluding loss of profit; and
- (iii) loss of, damage to, or loss of use of property of the Government;

to the extent that such a claim, loss or damage (A) arises out of the direct performance of this contract; (B) is not compensated by insurance or otherwise; and (C) results from a risk defined in this contract to be unusually hazardous. Any such claim, loss, or damage within deductible amounts of Contractor's insurance shall not be covered under this clause.

(b) The Government shall not be liable for any such claim, loss or damage that results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of (i) all or substantially all of the Contractor's business, or (ii)

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all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (iii) a separate and complete major industrial operation in connection with the performance of this contract. The Contractor shall not be indemnified under this clause for liability assumed under any contract or agreement (except for subcontracts which are covered by paragraph (d) below) unless such assumption of liability has been specifically approved by the Contracting Officer, (or in contracts with the Department of the Navy, *The Department*).

(c) No payment shall be made by the Government under this clause unless the amount thereof shall first have been certified to be just and reasonable by the Secretary or his representative designated for such purpose. Such payments shall be made from funds as stated in 10 U.S.C. 2354. The rights and obligations of the parties under this clause shall survive the termination, expiration, or completion of this contract.

(d) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract the same provisions as those in this clause, whereby the Contractor shall indemnify the subcontractor against any risk defined in this contract to be unusually hazardous. Such a subcontract shall provide the same rights and duties, and the same provisions for notice, furnishing of papers, and the like, between the Contractor and the subcontractor as are established by this clause. The Contracting Officer may also approve similar indemnification of lower tier subcontractors upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this clause shall entitle the Contractor or the Government, or both, to direct, participate in, and supervise the settlement or defense of relevant actions and claims. The Government shall indemnify the Contractor with respect to his obligations to subcontractors under subcontract provisions thus approved by the Contracting Officer. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to persons to whom the subcontractors may be liable.

(e) If insurance coverage maintained by the Contractor on the date of the execution of this contract is reduced, the liability of the Government under this clause shall not, by reason of such reduction, be increased to cover risks theretofore insured, unless the Contracting Officer consents thereto in consideration of an equitable adjustment to the Government, if appropriate, of the price in a fixed-price contract, or the fee in a cost-reimbursement type contract, in such amount as the parties may agree.

(f) In addition to the Contractor's responsibilities under the "Insurance—Liability to Third Persons" clause of this contract, which are hereby made applicable to claims under this clause, the Contractor shall (i) promptly notify the Contracting Officer of any occurrence he learns of that reasonably may be expected to involve indemnification under this clause, (ii) furnish evidence or proof of any claim, loss or damage covered by this clause in the manner and form required by the Government, and (iii) to the extent required by the Government, permit and authorize the Government to direct, participate in, and supervise the settlement or defense of any such claim or action. The cost of insurance (including self insurance), covering a risk defined in this contract as unusually hazardous, shall not be reimbursed either as a direct or indirect cost except to the extent that such insurance has been required or approved under the "Insurance—Liability to Third Persons" clause heretof.

(g) The "Limitation of Cost" clause of this contract does not apply to the Government's obligations under this clause. Such obligations shall be excepted from the release required under the "Allowable Cost, Fee, and Payment" clause of this contract.

(h) For purposes of this clause, a claim, loss or damage shall be considered to have arisen out of the direct performance of this contract if the cause for such claim, loss or damage occurred during the period of performance of this contract or as a result of the performance of this contract.

(End of clause)

7-403.57 Indemnification Under Public Law 85-804 — Cost-Reimbursement Type Contracts. In accordance with 10-702, insert the following clause.

7-403.57

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INDEMNIFICATION UNDER PUBLIC LAW 85-804 — COST-REIMBURSEMENT TYPE CONTRACTS (1974 APR)

(a) Pursuant to Public Law 85-804 (50 U.S.C. 1431 - 1435) and Executive Order 10789, as amended, and notwithstanding any other provision of this contract, but subject to the following paragraphs of this clause, the Government shall hold harmless and indemnify the Contractor against:

- (i) claims (including reasonable expenses of litigation or settlement) by third persons (including employees of the Contractor) for death, personal injury, or loss of, damage to, or loss of use of property;
- (ii) loss of or damage to property of the Contractor, and loss of use of such property but excluding loss of profit; and
- (iii) loss of, damage to, or loss of use of property of the Government but excluding loss of profit,

to the extent that such a claim, loss or damage (A) arises out of or results from a risk defined in this contract to be unusually hazardous or nuclear in nature and (B) is not compensated by insurance or otherwise. Any such claim, loss or damage within deductible amounts of Contractor's insurance shall not be covered under this clause.

(b) The Government shall not be liable for:

- (i) claims by the United States (other than those arising through subrogation) against the Contractor; or
- (ii) losses affecting the property of such Contractor;

when the claim, loss or damage was caused by the willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or principal officials. For purposes of this clause, the term "principal officials" means any of the Contractor's managers, superintendents, or other equivalent representatives who have supervision or direction of:

- (A) all or substantially all of the Contractor's business, or
- (B) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or
- (C) a separate and complete major industrial operation in connection with the performance of this contract.

The Contractor shall not be indemnified under this clause for liability assumed under any contract or agreement unless such assumption of liability has been specifically authorized by the Secretary and approved by the Contracting Officer (or in contracts with the Department of the Navy, *The Department*). When the Government has assumed liability for subcontracts, the term "Contractor" in this paragraph (h) shall include subcontractors.

(c) No payment shall be made by the Government under this clause unless the amount thereof shall first have been certified to be just and reasonable by the Secretary or his representative designated for such purpose. The rights and obligations of the parties under this clause shall survive the termination, expiration, or completion of this contract. The Government may discharge its liability under this paragraph by making payments to the Contractor or directly to parties to whom the Contractor may be liable.

(d) With the prior written approval of the Contracting Officer, the Contractor may include in any subcontract under this contract the same provisions as those in this clause, whereby the Contractor shall indemnify the subcontractor against any risk defined in this contract to be unusually hazardous or nuclear in nature. Such a subcontract shall provide the same rights and duties, and the same provisions for notice, furnishing of evidence or proof, and the like, between the Contractor and the subcontractor as are established by this clause. The Contracting Officer may also approve similar indemnification of subcontractors at any tier upon the same terms and conditions. Subcontracts providing for indemnification within the purview of this clause shall provide for the prompt notification to the Contracting Officer of any claim or action against, or of any loss by, the subcontractor which is covered by this clause, and shall entitle the Government at its election, to control or assist in the settlement or defense of any such claim or action. The Government shall indemnify the Contractor with respect to his obligations to subcontractors under subcontract provisions thus approved by the Contracting Officer. The Government may discharge its obligations under this paragraph by making payments directly to subcontractors or to parties to whom the subcontractor may be liable.

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(e) If insurance coverage or other financial protection program approved by the Secretary is reduced, the liability of the Government under this clause shall not be increased by reason of such reduction.

(f) In addition to the Contractor's responsibilities under the "Insurance - Liability to Third Persons" clause of this contract, which are hereby made applicable to claims under this clause, the Contractor shall (i) promptly notify the Contracting Officer of any claim or action against, or by any loss by, the Contractor or any subcontractor which reasonably may be expected to involve indemnification under this clause, (ii) furnish evidence or proof of any claim, loss or damage covered by this clause in the manner and form required by the Government, and (iii) to the extent required by the Government, permit and authorize the Government to direct, control or assist in the settlement or defense of any such claim or action. The cost of insurance (including self insurance), covering a risk defined in this contract as unusually hazardous or nuclear in nature shall not be reimbursed either as a direct or indirect cost except to the extent that such insurance has been required or approved under the "Insurance - Liability to Third Persons" clause hereof.

(g) "Limitation of Cost" / "Limitation of Funds" clauses of this contract do not apply to the Government's obligations under this clause. Such obligations shall be excepted from the release required under the "Allowable Cost" clause of this contract.

(End of clause)

7-403.58 *Preference for United States Flag Air Carriers.* In accordance with 1-336.1(b), insert the clause in 7-104.95.

7-403.59 *Submission of Commercial Freight Bills to the General Services Administration for Audit.* In accordance with 19-403.2(c), insert the clause in 7-204.61.

7-403.60 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-403.61 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-403.62 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the clause in 7-104.97.

7-403.63 *Hazardous Material Identification and Material Safety Data.* In accordance with 1-323.2(b), insert the clause in 7-104.98.

7-403.64 *Reserved.*

7-403.65 *Reserved.*

7-403.66 *Limitation on Sales Commissions and Fees for Foreign Governments.* In accordance with 6-1305.6, insert the clause in 7-104.107.

7-404 *Additional Clauses.* The following clauses shall be inserted in accordance with Departmental procedures when it is desired to cover the subject matter thereof in such contracts.

7-404.1 *Changes.*

CHANGES (1967 APR)

(a) The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following:

(i) drawings, designs, or specifications.

(ii) method of shipment or packing, and

(iii) place of inspection, delivery, or acceptance.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, or otherwise affects any other provision of this contract, an equitable adjustment shall be made.

(i) in the estimated cost or delivery schedule, or both;

(ii) in the amount of any fixed fee to be paid to the Contractor; and

(iii) in such other provisions of the contract as may be affected, contract shall be modified in writing accordingly.

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Part 5—Personal Services Contracts

7-500 *Scope of Part.* This Part sets forth uniform contract clauses for use in personal services contracts referred to in 7-502.

7-501 *Reserved.*

7-502 *Applicability.* As used throughout this Part, the term "personal services contract" applies only to a contract entered into with an individual, other than an alien scientist, for personal services to be performed by that individual under Government supervision and paid for on a time basis. It does not apply to contracts with firms or organizations.

7-503 *Required Clauses.* The following clauses shall be inserted in all personal services contracts, except as indicated:

7-503.1 *Definitions.* Insert the contract clause in 7-103.1, omitting subparagraph (c).

7-503.2 *Payments.*

PAYMENTS (1958 JAN)

Payment for the services performed by the Contractor, as set forth in the Schedule of this contract, shall be made at the rates prescribed, upon the submission by the Contractor of proper invoices or time statements to the office or officer designated herein and at the time provided for herein. In addition to the foregoing the Contractor shall be paid (i) a per diem rate in lieu of subsistence for each day the Contractor is in a travel status away from his home or regular place of employment in accordance with Standardized Government Travel Regulations as authorized in appropriate Travel Orders; and (ii) such other transportation expenses as may be provided for in the Schedule.

(End of clause)

7-503.3 *Assignment of Claims.*

ASSIGNMENT OF CLAIMS (1953 JAN)

No claim arising under this contract shall be transferred or assigned by the Contractor.

(End of clause)

7-503.4 *Disputes.* In accordance with 7-103.12, insert the clause therein.

7-503.5 *Officials Not To Benefit.* Insert the contract clause in 7-103.19, omitting the final phrase which begins, "but this provision ***."

7-503.6 *Covenant Against Contingent Fees.* Insert the contract clause in 7-103.20.

7-503.7 *Termination.*

TERMINATION (1953 JAN)

This contract may be terminated by the Government at any time within the period of its duration upon not less than 15 days' written notice by the Contracting Officer to the Contractor. The Contractor, with the written consent of the Contracting Officer, may terminate this contract upon not less than 15 days' written notice to the Contracting Officer, and the consent of the Contracting Officer shall not unreasonably be withheld.

(End of clause)

7-503.7

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7-503.8 Approval of Contract.

APPROVAL OF CONTRACT (1983 JAN)

This contract shall be subject to the written approval of the Secretary or his duly authorized representative and shall not be binding until so approved.
(End of clause)

7-503.9 Patents. In accordance with 9-704, insert the following clause.

PATENT RIGHTS (1975 AUG)

(a) For the purpose of determining the rights of the Government and the Contractor in and to inventions, the Contractor agrees to be bound by all provisions of Executive Order 10096, dated 23 January 1950, and any orders, rules, regulations, or the like issued thereunder.

(b) The Contractor shall: (i) make written disclosure promptly to the Contracting Officer of all inventions of the Contractor which are conceived or first actually reduced to practice during the term of this contract, and sign and execute all papers necessary for conveying to the Government the right to which the Government is entitled in accordance with the determination made under the provisions of Executive Order 10096, or (ii) certify to the Contracting Officer that, to the best of the Contractor's knowledge and belief, no inventions have been conceived or first actually reduced to practice during the term of this contract.
(End of clause)

7-503.10 Pricing of Adjustments. Insert the clause in 7-103.26.

7-504 Clauses To Be Used When Applicable.

7-504.1 Military Security Requirements.

(a) Except as provided in (b) below, insert the Military Security Requirements clause in accordance with 7-104.12.

(b) In any cost reimbursement type contract, insert the Military Security Requirements clause in accordance with 7-204.12.

7-504.2 Rights in Data. In accordance with 7-104.9, insert the appropriate clause, or clauses, therein. Specific consideration should be given to the use of the clause in 7-104.9(e) when the duties of the contractor will involve the preparation of works in which the Government may desire to obtain copyright protection.

7-504.3 Interest. In accordance with E-620, insert the clause in 7-104.39.

7-504.4 Government Property.

(a) Fixed Fee Contracts. Insert the appropriate clause or clauses in 7-104.24.

(b) Cost Reimbursement Contracts. Insert the clause in 7-203.21.

7-504.5 Order of Precedence. In accordance with 3-501(b)Sec.C(xxxi), insert the clause in 7-2003.41.

7-504.6 United States Products and Services (Balance of Payments Program). In accordance with Section VI, Part 8, insert the clause in 7-2003.53.

7-504.7 Identification of Expenditures in the United States. In accordance with 6-807, insert the clause in 7-104.58.

7-504.8 Use of Excess and Near Excess Currency. In accordance with 6-1110, insert the clause in 7-104.66.

7-504.9 Production Progress Report. In accordance with 25-202, insert the clause in 7-104.51.

7-504.10 Examination of Records by Comptroller General. In accordance with 7-104.15, insert the clause therein.

7-504.11 Management Systems Requirements. In accordance with 16-827.1, insert the clause in 7-104.50.

7-504.12 Reserved.

7-504.12

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program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

(i) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

(j) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

(k) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(l) The Contractor shall carry out such sanctions and penalties for violation of this clause and of the Equal Opportunity clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of this clause and Executive Order 11246, as amended.

(m) The Contractor, in fulfilling its obligations under this clause shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph (g) of this clause, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or this clause, the Director shall proceed in accordance with 41 CFR 60-4.8.

(n) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(o) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(End of clause)

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7-604 Additional Clauses. The following clauses shall be inserted in contracts when it is desired to cover the subject matter thereof in such contracts.

7-604.1 Alterations in Contract. (See 16-501.1(viii).) The following clause may be used if applicable, in negotiated contracts when Standard Form 23 is not used:

ALTERATIONS (1961 JAN)

The following alterations were made in this contract before it was signed by the parties hereto.
(End of clause)

7-604.2 Approval of Contract. The contract clause in 7-105.2 may be inserted.

7-604.3 Layout of Work. The following clause is authorized for use in construction contracts when appropriate.

LAYOUT OF WORK (1965 JAN)

The Contractor shall lay out his work from Government established base lines and bench marks indicated on the drawings and shall be responsible for all measurements in connection therewith. The Contractor shall furnish, at his own expense, all stakes, templates, platforms, equipment, tools, and materials and labor as may be required in laying out any part of the work from the base lines and bench marks established by the Government. The Contractor will be held responsible for the execution of the work to such lines and grades as may be established or indicated by the Contracting Officer. It shall be the responsibility of the contractor to maintain and preserve all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed, by the Contractor or through his negligence, prior to their authorized removal, they may be replaced by the Contracting Officer at his discretion. The expense of replacement will be deducted from any amounts due or to become due the Contractor.
(End of clause)

7-604.3

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(2) "Safety precaution areas" means those portions of approach-departure clearance zones and transitional zones where placement of objects incident to contract performance might result in vertical projections at or above the approach-departure clearance surface or the transitional surface.

(A) The "approach-departure clearance surface" is an extension of the primary surface and the clear zone at each end of each runway, for a distance of 50,000 feet, first along an inclined plane (glide angle) and then along a horizontal plane, both flaring symmetrically about the runway centerline extended. The inclined plane (glide angle) begins in the clear zone 200 feet past the end of the runway (and primary surface) at the same elevation as the end of the runway, and continues upward at a slope of 50:1 (one foot vertically for each 50 feet horizontally) to an elevation of 500 feet above the established airfield elevation; at that point the plane becomes horizontal, continuing at that same uniform elevation to a point 50,000 feet longitudinally from the beginning of the inclined plane (glide angle) and ending there. The width of the surface at the beginning of the inclined plane (glide angle) is the same as the width of the clear zone; thence it flares uniformly, reaching the maximum width of 16,000 feet at the end.

(B) The "approach-departure clearance zone" is the ground area under the approach-departure clearance surface.

(C) The "transitional surface" is a sideways extension of all primary surfaces, clear zones, and approach-departure clearance surfaces along inclined planes. The inclined plane in each case begins at the edge of the surface. The slope of the inclined plane is 7:1 (one foot vertically for each 7 feet horizontally), and it continues to the point of intersection with the inner horizontal surface (which is the horizontal plane 150 feet above the established airfield elevation) or the outer horizontal surface (which is the horizontal plane 500 feet above the established airfield elevation), whichever is applicable.

(D) The "transitional zone" is the ground area under the transitional surface. (It adjoins the primary surface, clear zone and approach-departure clearance zone.)

(c) The Contractor shall report to the Contracting Officer before initiating any work and shall notify him of proposed changes of locations and operations.

(d) Neither equipment nor personnel shall use any runway for purposes other than aircraft operation without permission of the Contracting Officer unless the runway is closed by order of the Contracting Officer and marked as provided in (e)(2) below.

(e)(1) The Contractor shall place nothing upon the landing areas without authorization of the Contracting Officer.

(2) Unless otherwise authorized by the Contracting Officer, the Contractor shall outline those landing areas hazardous to aircraft, with red flags by day, and with electric, battery-operated, low-intensity red flasher lights by night.

(3) Before entering any landing area at an airfield where flying is controlled, additional permission must be obtained every time from the control tower operator, unless the landing area is marked as hazardous to aircraft in accordance with (2) above.

(4) All vehicles which the Contractor operates in landing areas shall be identified by means of a flag on a staff attached to and flying above the vehicle. The flag shall be three feet square and shall consist of a checkered pattern of international orange and white squares of one foot on each side (except that the flag may vary up to 10 percent from each of these dimensions).

(5) Unless otherwise authorized by the Contracting Officer, all other equipment and materials in the landing areas shall be marked with red flags by day, and with electric, battery-operated, low-intensity red flasher lights by night.

(6) Work shall be carried on so as to leave that portion of the landing area which is available to aircraft free from hazards, holes, piles of material, and projecting shoulders that might damage an airplane tire.

(f)(1) The Contractor shall place nothing upon the safety precaution areas without authorization of the Contracting Officer.

(2) Unless otherwise authorized by the Contracting Officer, all equipment and materials in safety precaution areas shall be marked with red flags by day, and with electric, battery-operated, low-intensity red flasher lights by night.

(3) All objects, placed in safety precaution areas, which project above the approach-departure clearance surface or above the transitional surface must be provided at night with a red light or red lantern.

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(g) The Contractor shall keep all paved surfaces, such as runways, taxiways, and hardstands, clean at all times and, specifically, free from small stones which might damage aircraft propellers or jet aircraft.

(h) While work is actually being performed on the airfield by the Contractor, the operation of mobile equipment shall be governed by the safety provisions above. At all other times all mobile equipment shall be removed to locations approved by the Contracting Officer at a distance of at least 750 feet from the runway centerline plus any additional distance necessary to insure compliance with the other provisions of this clause.

(i) Only those trenches may be opened for which material is on hand and ready for placing therein. As soon as practicable after material has been placed and work approved, trenches shall be backfilled and compacted as required by the contract. Meanwhile all hazardous conditions shall be marked and lighted in accordance with the other provisions of this clause.

(End of clause)

* At some airfields the width of the primary surfaces is 1500 feet (750 feet on each side of the runway centerline). In such instances substitute the proper width in the clause.

7-606.19 *Limitation on Sales Commissions and Fees for Foreign Governments.* In accordance with 6-1305.6, insert the clause in 7-104.107.

7-606.20 *Reserved.*

7-606.21 *Payment of Interest on Contractor's Claims.* In accordance with 1-333, insert the clause in 7-104.82.

7-606.22 *Cost Accounting Standards.* In accordance with 3-1204, insert the clause in 7-104.83.

7-606.23 *Capture and Detention.* In accordance with 10-406, insert the clause in 7-104.94.

7-606.24 *Value Engineering.* A VE Incentive or Program Requirement clause may be included in Cost-Reimbursement Type construction contracts at the discretion of the Contracting Officer. Use 7-602.50 or 7-104.44 (as modified by 7-204.32(b) or (c)) to suit the procurement.

7-606.25 *Patent Rights.* In accordance with 9-701 and 18-908, insert the appropriate clause in 7-302.23.

7-606.26 *Filing of Patent Applications.* In accordance with 9-106, insert the clause in 7-104.6.

7-606.27 *Reporting of Royalties.* In accordance with 9-110(d), insert the clause in 7-104.8(a).

7-606.28 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-606.29 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-606.30 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the clause in 7-104.97.

7-606.31 *Hazardous Material Identification and Material Safety Data.* In accordance with 1-323.2(b), insert the clause in 7-104.98.

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(i) credits to, or adjustment of the prices of, the related contracts, subcontracts, or purchase orders benefiting from the use of the modernized or replacement equipment; or

(ii) payment to the Government through the Contracting Officer having cognizance of the Government production and research property; or

(iii) such other means as may be mutually agreed to.

(End of clause)

7-705.23 *Aircraft, Missile, and Space Vehicle Accident Reporting and Investigation.* In accordance with 7-104.81, insert the clause therein.

7-705.24 *Safety Precautions for Ammunition and Explosives.* In accordance with 7-104.79, insert the clause therein.

7-705.25 *Notice of Radioactive Materials.* In accordance with 7-104.80, insert the clause therein.

7-705.26 *Procurement of Miniature and Instrument Ball Bearings.* In accordance with 1-2207.3, insert the clause in 7-104.38.

7-705.27 *Reserved.*

7-705.28 *Cost Accounting Standards.* In accordance with 3-1204, insert the clauses in 7-104.83.

7-705.29 *Term of Performance or Delivery Date.* When applicable, a clause in accordance with 7-104.92 may be used.

7-705.30 *Preference for United States Flag Air Carriers.* In accordance with 1-336.1(b), insert the clause in 7-104.95.

7-705.31 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-705.32 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-705.32

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Part 10—Stevedoring Contracts

7-1000 Scope of Part. This Part sets forth uniform contract clauses for use in stevedoring contracts as defined in 22-401. These clauses are to be used in addition to other required or applicable clauses set forth in Part 19 of this Section.

7-1001 Technical Provisions. The following clauses or appropriate revisions in accordance with 22-404 shall normally be included in all stevedoring contracts.

7-1001.1 Scope of Contract.**SCOPE OF CONTRACT (1964 AUG)**

(a) *General.* The Contractor shall load and discharge cargoes and in connection therewith shall perform all the duties of a stevedore on any vessel which the Contracting Officer may designate at upon the terms and conditions hereinafter set forth for the term of this contract, beginning and ending; provided, however, that any work started before and not completed by the expiration of this contract shall be governed by the terms of this contract unless otherwise directed by the Contracting Officer.

(b) Contractor's Duties.

(1) *Loading.* In loading vessel, the Contractor shall remove and handle cargo from place of rest on pier or in pier shed or within the cargo assembly area; also from open-top railroad cars, trucks and trailers alongside ship; also from barges, lighters, scows, car floats and open-top railroad cars on car floats alongside ship. The Contractor shall stow said cargo in any space in the vessel, including bunker space, holds, 'tween decks, on deck, and deep tanks, in the order directed by and in a manner satisfactory to the Contracting Officer.

(2) *Discharging.* In discharging vessel, the Contractor shall remove and handle cargo from any space in the vessel, including bunker space, holds, 'tween decks, on deck, and deep tanks. The Contractor shall land said cargo at place of rest on pier or in pier shed or within the cargo assembly area; also on open-top railroad cars, trucks and trailers alongside ship, also on barges, lighters, scows, car floats and open-top railroad cars on car floats alongside ship. The Contractor shall perform such discharging in the order directed by and in a manner satisfactory to the Contracting Officer.

(3) *Handling Explosives.* In addition to (1) and (2) above, the following provisions are applicable to the loading and discharging of explosives:

(a) In loading explosives the Contractor shall perform all the stevedoring services necessary for the breaking-out and discharging from railroad cars, trucks and/or lighters alongside ship or from place of rest on pier, transporting to the vessel, and properly loading, stowing and normal securing and chocking in the vessel in a manner directed by applicable U.S. Coast Guard, Army, or Navy regulations.

(b) In discharging explosives the Contractor shall perform all stevedoring services necessary for discharging cargo from the vessel to place of rest on pier or the transporting to and loading into railroad cars, trucks and/or lighters. The Contractor shall also prepare and line the cars for handling the cargo (except the laying of new flooring) and shall brace, secure, cut bands, and lash the cargo in the cars in accordance with applicable regulations and shall place "explosive" placards on the cars prior to release, and shall close and seal all doors.

(c) The furnishing and preparation of gates, studs, new flooring, etc., for blocking railroad cars, as well as prefabrication of blocking in the vessel's hold, will be at the expense of the Government.

(d) The Contractor shall not be compensated for standby time when caused by slow-up or delay of one of his operations, which delay directly affects the other operations, such as delay in loading railroad cars, or in discharging from ship's hatches, unless such slow-up or delay was beyond the control and without the fault or negligence of the Contractor. This does not include the time required for shifting railroad cars. No standby time will be allowed unless previously approved by the Contracting Officer.

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7-902.35 Cost Accounting Standards. In accordance with 3-1204, insert the clauses in 7-104.83.

7-902.36 Term of Performance or Delivery Date. When applicable, a clause in accordance with 7-104.92 may be used.

7-902.37 Availability of Funds. In accordance with 1-318, insert one of the clauses in 7-104.91.

7-902.38 Capture and Detention. In accordance with 10-406, insert the clause in 7-104.94.

7-902.39 Warranty of Technical Data. In accordance with 1-324.6, insert the clause in 7-104.9(o).

7-902.40 Preference for United States Flag Air Carriers. In accordance with 1-336.1(b), insert the clause in 7-104.95.

7-902.41 Privacy Act. In accordance with 1-327.1, insert the clause in 7-104.96.

7-902.42 Preference for Domestic Specialty Metals. In accordance with 7-104.93, insert the applicable clause therein.

7-902.43 Exclusionary Policies and Practices of Foreign Governments. In accordance with 6-1312, insert the clause in 7-104.97.

7-902.44 Hazardous Material Identification and Material Safety Data. In accordance with 1-323.2(b), insert the clause in 7-104.98.

7-902.45 Reserved.

7-902.46 Reserved.

7-902.47 Limitations on Sales Commissions and Fees for Foreign Governments. In accordance with 6-1305.6, insert the clause in 7-104.107.

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7-1903.43 *Government Delay of Work.* The clause in 7-104.77 may be inserted.

7-1903.44 *Safety Precautions for Ammunition and Explosives.* In accordance with 7-104.79, insert the clause therein.

7-1903.45 *Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles.* In accordance with 7-104.81, insert the clause therein.

7-1903.46 *Management Systems Requirements.* In accordance with 16-827.1, insert the clause in 7-104.50.

7-1903.47 *Reserved.*

7-1903.48 *Cost Accounting Standards.* In accordance with 3-1204, insert the clauses in 7-104.83.

7-1903.49 *Availability of Funds.* In accordance with 1-318, insert one of the clauses in 7-104.91.

7-1903.50 *Capture and Detention.* In accordance with 10-406, insert the clause in 7-104.94.

7-1903.51 *Value Engineering.*

(a) In accordance with 1-1702, insert the appropriate clauses in 7-104.44 modified, as required, to suit the particular procurement involved.

(b) Insert additional paragraph as follows:

() Contractor proposals which eliminate, modify or substitute new procedures for contractually required work procedures shall qualify for instant contract savings sharing. If this is a time and material or labor-hour contract, the "effect of the proposal on the Contractor's cost of performance," for purposes of the instant contract sharing paragraph (c)(1) of the clause, shall be determined by (i) multiplying the time per item saved by the elimination, modification, or substitution by the labor-hour rate agreed upon for the work involved, and then (ii) multiplying the result by the number of items over which the task has been deleted, and (iii) taking into account in the usual manner the Contractor's cost of developing the proposal and of implementing the change, and increased Government costs related to implementing the proposal. (The result under (i) would be the unit cost reduction for purposes of determining future acquisition savings.)

(End of clause paragraph)

7-1903.52 *Buy American Act.* In accordance with 7-104.3, insert the clause therein.

7-1903.53 *Preference for United States Flag Air Carriers.* In accordance with 1-336.1(b), insert the clause in 7-104.95.

7-1903.54 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.

7-1903.55 *Preference for Domestic Specialty Metals.* In accordance with 7-104.93, insert the applicable clause therein.

7-1903.56 *Exclusionary Policies and Practices of Foreign Governments.* In accordance with 6-1312, insert the clause in 7-104.97.

7-1903.57 *Hazardous Material Identification and Material Safety Data.* In accordance with 1-323.2(b), insert the clause in 7-104.98.

7-1903.58 *Reserved.*

7-1903.59 *Limitation on Sales Commissions and Fees for Foreign Governments.* In accordance with 6-1305.6, insert the clause in 7-104.107.

7-1904 *Additional Clauses for Use in Fixed-Price Service Contracts.* The following clauses may be inserted in fixed price service contracts in accordance with Departmental procedures when it is appropriate to do so.

7-1904.1 *Alterations in Contract.* The clause in 7-105.1(a) may be inserted.

7-1904.1

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right to examine any directly pertinent books, documents, papers, and records of the Contractor until the expiration of 3 years after final payment under this contract.

(d) This clause shall be deemed to constitute the exclusive contractual remedy of the Contractor for adjustment arising out of the decision to apply the Service Contract Act, as amended, to the work covered by this contract. Failure of the parties to reach an understanding as to such adjustment shall be considered a dispute subject to the Disputes clause of the contract.

(End of clause)

7-1903.42 *Patent Rights.* When experimental, developmental, or research work may be performed under the contract, insert the appropriate clause in 7-302.23.

7-1903.42

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- 7-1910.27 *Order of Precedence*. In accordance with 3-501(b)(Sec.C(xxi)), insert the clause in 7-2003.41.
- 7-1910.28 *United States Products and Services (Balance of Payments)*. In accordance with 6-806.4, insert the clause in 7-2003.53.
- 7-1910.29 *Identification of Expenditures in the United States*. In accordance with 6-807, insert the clause in 7-104.58.
- 7-1910.30 *Use of Excess and Near Excess Currency*. In accordance with 6-1110, insert the clause in 7-104.66.
- 7-1910.31 *Service Contract Act of 1965*. In accordance with 7-1903.41, insert the appropriate clause therein.
- 7-1910.32 *Convict Labor*. In accordance with Section XII, Part 2, insert the clause in 7-104.17.
- 7-1910.33 *Safety Precautions for Ammunition and Explosives*. In accordance with 7-104.79, insert the clause therein.
- 7-1910.34 *Management Systems Requirements*. In accordance with 16-827.1, insert the clause in 7-104.50.
- 7-1910.35 *Reserved*.
- 7-1910.36 *Cost Accounting Standards*. In accordance with 3-1204, insert the clauses in 7-104.83.
- 7-1910.37 *Capture and Detention*. In accordance with 10-406, insert the clause in 7-104.94.
- 7-1910.38 *Buy American Act*. In accordance with 7-104.3, insert the clause therein.
- 7-1910.39 *Preference for United States Flag Air Carriers*. In accordance with 1-336.1(b), insert the clause in 7-104.95.
- 7-1910.40 *Exclusionary Policies and Practices of Foreign Governments*. In accordance with 6-1312, insert the clause in 7-104.97.
- 7-1910.41 *Hazardous Material Identification and Material Safety Data*. In accordance with 1-323.2(b), insert the clause in 7-104.98.
- 7-1911 *Additional Clauses for Use in Cost Reimbursement Service Contracts*. The following clauses may be included in cost reimbursement service contracts in accordance with Departmental procedures when it is appropriate to do so.
- 7-1911.1 *Alterations in Contract*. The clause in 7-105.1(a) may be inserted.
- 7-1911.2 *Approval of Contract*. The clause in 7-105.2 may be inserted.
- 7-1911.3 *Options*. Examples of option clauses appear in 7-104.27 and 7-1903.22. See Section I, Part 15, for specific instructions, prohibitions and procedures.
- 7-1911.4 *Stop Work Orders*. In accordance with 7-205.6, the clause prescribed therein may be inserted.
- 7-1911.5 *Clauses for Contracts Involving Furnishing of Supplies*. In cost reimbursement service contracts which involve the furnishing of supplies, the following clauses shall be included in addition to those prescribed by 7-1909.
- 7-1911.5.1 *Changes* clause in 7-203.2;
- 7-1911.5.2 *Inspection of Supplies and Correction of Defects* clause in 7-203.5; and
- 7-1911.5.3 *Walsh-Healey Public Contracts Act* clause in 7-103.17.
- In addition, applicable clauses in 7-1910 shall be included. Any clause applicable only to supplies or only to services shall be so labeled.

7-1911.5

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- 7-1910.4 *Notice to the Government of Labor Disputes*. In accordance with 7-104.4, insert the clause therein.
- 7-1910.5 *Right of First Refusal for Employment Openings*. In accordance with 4-1202, insert the clause in 7-104.104.
- 7-1910.6 *Filing of Patent Applications*. In accordance with 9-106, insert the clause in 7-104.6.
- 7-1910.7 *Patent Rights*. When experimental, developmental or research work may be performed under the contract, insert the appropriate clause in 7-302.23.
- 7-1910.8 *Communist Areas*. In accordance with 6-403, insert the clause in 7-103.15.
- 7-1910.9 *Reporting of Royalties*. In accordance with 9-110, insert the clause in 7-104.8(a).
- 7-1910.10 *Rights in Data*. In accordance with 7-104.9, insert the appropriate clause, or clauses, therein.
- 7-1910.11 *Quality Program*. In accordance with 14-304, insert the clause in 7-104.28.
- 7-1910.12 *Military Security Requirements*. In accordance with 7-104.12(a), insert the clause therein with the modification specified in 7-204.12.
- 7-1910.13 *Gratuities*. Insert the clause in 7-104.16, except in contracts and purchase orders with foreign governments obligating solely funds other than those contained in Department of Defense Appropriation Acts.
- 7-1910.14 *Limitation on Sales Commissions and Fees for Foreign Governments*. In accordance with 6-1305.6, insert the clause in 7-104.107.
- 7-1910.15 *Ocean Transport of Government Owned Supplies*. In accordance with 1-1404(a), insert the clause in 7-104.19(a).
- 7-1910.16 *Limitation on Withholding of Payments*. In accordance with 7-104.21, insert the clause therein.
- 7-1910.17 *Flight Risks*. In accordance with 10-504, insert the clause in 7-204.21.
- 7-1910.18 *Taxes*. In accordance with 11-403.2, insert the appropriate clause in 7-204.24.
- 7-1910.19 *Advance Payments*. When advance payments are to be made in accordance with Appendix E, Part 4, insert the appropriate clauses in 7-104.34.
- 7-1910.20 *Frequency Authorization*. In accordance with 7-104.61, insert the clause therein.
- 7-1910.21 *Interest*. In accordance with E-620, insert the clause in 7-104.39.
- 7-1910.22 *Value Engineering*. In accordance with 1-1702, insert the appropriate clauses in 7-104.44, substituting the clause paragraph (e)(1)(ii) in 7-204.32(b) or (c) for paragraph (e)(1)(ii) of the clause in 7-104.44 and as modified by clause paragraph (k) in 7-1903.51.
- 7-1910.23 *Price Reduction for Defective Cost or Pricing Data*. In accordance with 7-104.29, insert the appropriate clause therein.
- 7-1910.24 *Subcontractor Cost and Pricing Data*. In accordance with 7-104.42, insert the appropriate clause therein.
- 7-1910.25 *Examination of Records by Comptroller General*. In accordance with 7-104.15, insert the clause therein.
- 7-1910.26 *Special Test Equipment*. Insert the clause in 7-104.26 in negotiated contracts which provide that the contractor will acquire special test equipment for the Government but do not specify the items to be acquired (see 13-306.3).

7-1910.26

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7-2102.5 *Misplaced Material*. If the contract involves work on or adjacent to a navigable stream, insert the clause in 7-603.32.

7-2102.6 *Signal Lights*. If the contract involves the use of marine equipment, insert the clause in 7-603.33.

7-2102.7 *Military Security*. In accordance with 7-104.12, insert the clause set forth therein in contracts involving classified facilities except in those contracts to be performed outside the United States, its possessions and Puerto Rico.

7-2102.8 *Identification of Employees*. In accordance with 7-603.34, insert the clause set forth therein where identification is required for security or other reasons.

7-2102.9 *Interest*. In accordance with E-620, insert the clause in 7-104.39.

7-2102.10 *Examination of Records by Comptroller General*. In accordance with 7-104.15, insert the clause therein in negotiated contracts in excess of \$10,000.

7-2102.11 *Utilization of Small and Small Disadvantaged Business Concerns*. In accordance with 1-707.3(a), insert the clause in 7-104.14(a).

7-2102.12 *Reserved*.

7-2102.13 *Reserved*.

7-2102.14 *Reserved*.

7-2102.15 *Reserved*.

7-2102.16 *Gratuities*. In accordance with 7-104.16, insert the clause therein.

7-2102.17 *Convict Labor*. In accordance with Section XII, Part 2, insert the clause in 7-104.17.

7-2102.18 *Price Reduction for Defective Cost or Pricing Data*. In accordance with 7-104.29, insert the appropriate clause therein.

7-2102.18

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7-2003.91 *Certification of Handicapped Organizations*. In accordance with 2-201(a)Sec.K(xx1), 2-201(b)(lxiv), 3-501(b)Sec.K(xxii), and 3-501(c)(lxvi), insert the following provision.

HANDICAPPED ORGANIZATIONS (1981 SEP)

The Offeror certifies that it is [] is not [] an organization eligible for assistance under section 7(h) of the Small Business Act (15 USC 636). An Offeror certifying in the affirmative is eligible to participate in any resultant contracts hereunder or any part thereof as if he were a small business concern as elsewhere defined in the solicitation. An organization to be eligible under section 7(h) of the Small Business Act must be one (i) organized under the laws of the United States or any state; (ii) operated in the interest of handicapped individuals; (iii) the net income of which does not inure in whole or part to the benefit of any shareholder or other individual; (iv) that complies with any applicable occupational health and safety standard prescribed by the Secretary of Labor; (v) that, during the fiscal year in which it bids upon a set-aside, employs handicapped individuals for not less than 75 per cent of the man-hours required for the production or provision of commodities or services; and (vi) that can qualify under the additional criteria prescribed in Section 118.11, SBA Rules and Regulations, 13 CFR 118.11. For purposes of this clause, the term "handicapped individual" means a person who has a physical, mental, or emotional impairment, defect, ailment, disease, or disability of a permanent nature which in any way limits the selection of any type of employment for which the person would otherwise be qualified or qualifiable.

(End of provision)

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- 7-2102.19 *Audit by Department of Defense.* In accordance with 7-104.41, insert the clause therein.
- 7-2102.20 *Subcontractor Cost or Pricing Data.* In accordance with 7-104.42, insert the appropriate clause therein.
- 7-2102.21 *Clean Air and Water.* In accordance with 1-2302.2, insert the clause in 7-103.29.
- 7-2102.22 *Privacy Act.* In accordance with 1-327.1, insert the clause in 7-104.96.
- 7-2102.23 *Reserved.*

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Part 3—Providing Government Property to Contractors

13-301 Providing Facilities.

(a) It is the policy of the Department of Defense that contractors will furnish all facilities required for the performance of Government contracts. Facilities will not be provided to contractors for restoration, replacement, modernization or other purpose except as follows:

- (i) for use in a Government owned contractor operated plant operated on a cost-plus-fixed-fee basis;
- (ii) for support of industrial preparedness programs;
- (iii) when—

- (A) the Secretary of the Department or his designee, in the case of new facilities, or an authorized official of the Department in the case of existing Government owned facilities, determines that:

- (1) the Defense contract cannot be fulfilled by any other practical means, or (2) it is in the public interest; and

- (B) the contractor, represented by an executive corporate official, or his equivalent in non-corporate entities, either expresses in writing his unwillingness or financial inability to acquire the necessary facilities with his resources, or explains in writing that time will not permit him to make the necessary arrangements to obtain timely delivery of such facilities to meet defense requirements even though he is willing and financially able to acquire the facilities. In this latter case, existing Government-owned facilities (not new purchases) may be provided until the contractor purchased facilities are delivered and installed;

or

- (iv) as components of special tooling (see 13-101.5) or special test equipment acquired or fabricated at Government expense (see 13-101.6).

New facilities shall not be furnished unless existing Government-owned facilities are either inadequate or cannot be economically furnished.

(b) In any case, competitive solicitations shall not include an offer by the Government to provide new facilities, nor shall solicitations offer to furnish existing Government facilities that must be moved into plants of contractors unless adequate price competition cannot be otherwise obtained. In the latter case, the contractor statement under (a)(iii)(B) above shall not be required, but contractors shall be required to identify the Government-owned facilities desired to be moved into their plants.

(c) New facilities shall not be provided by the Government where an economical, practical and appropriate alternative exists. Examples include:

- (i) procuring from sources not requiring Government-owned facilities;
- (ii) requiring the contractors to make full utilization of subcontractors possessing adequate and available capacity;
- (iii) having the contractor rent facilities from commercial sources; and
- (iv) using existing Government-owned facilities.

(d) New construction or improvements having general utility shall not be provided with appropriations for research or development unless authorized by law.

(e) Facilities shall not be provided by the Government to contractors under this Section solely for non-government use.

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(f) Facilities having a unit cost of less than \$1,000 shall not be provided to contractors except:

- (i) nonprofit institutions of higher education or other nonprofit organizations whose primary purpose is the conduct of scientific research (see 4-116.3);
 - (ii) contractors operating a Government-owned plant on a fee basis;
 - (iii) contractors performing on-site at Government installations;
- or
- (iv) in contracts which specifically authorize, subject to the contracting officer's approval, the contractor to either acquire or fabricate special tooling or special test equipment and components thereof.

(g) Prior to acquiring new facilities listed in the joint DoD handbooks referenced in 13-312 and having an item acquisition cost of \$1,000 or more, DoD Industrial Plant Equipment Requisition (DD Form 1419) shall be submitted to the Defense Industrial Plant Equipment Center, Memphis, Tenn. 38114, to ascertain whether existing reallocable Government-owned facilities can be utilized. If the requested facilities are numerically controlled, DD Form 1342, Section VI (page 2) (see F-200.1342), shall be prepared and submitted with the DD Form 1419. No acquisition of any listed item shall be made until a certificate of nonavailability is received from the Defense Industrial Plant Equipment Center (DIPEC). However, prior to issuing a certificate of nonavailability, DIPEC shall determine if technical data (e.g., parts listings, maintenance, overhaul and repair manuals, wiring diagrams, etc.) are available. If it is determined that such data is not available at the time of issuance of the nonavailability certificate for equipment, DIPEC may request, by an appropriate instruction in block 51 of DD Form 1419, that an additional set of the technical (maintenance) data be acquired with the new facilities when they are obtained. This additional set of data shall be delivered to the repository address specified by DIPEC in block 51 of DD Form 1419. In addition to acquiring technical (maintenance) data for new facilities, a description of the features of numerically controlled facilities on DD Form 1342, Section VI (page 2), shall also be acquired (see B-306.1, C-306.1, and F-200.1342). Acquisition of new numerically controlled facilities shall include the requirement for the builder to complete Section VI of DD Form 1342 in triplicate, affix one copy to inside of numerical control cabinet door in a manner to preclude removal or destruction, place two copies in an envelope, and tape to door near the first copy. When warranted by the urgency of the situation, requests for screening may be submitted to

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DIPEC by whatever means determined expedient. When submitting urgent screening requirements other than on a DD Form 1419, the following elements of information must be furnished for each item of equipment:

- (i) requisition number;
- (ii) PEC/NSN;
- (iii) description data sufficient to enable DIPEC to make an urgency determination of availability;
- (iv) date item required;
- (v) name and address of acquiring agency;
- (vi) contract number and program;
- (vii) statement as to whether item is for production or mobilization, replacement or modernization, whether item will be procured if not available from DIPEC, and date of availability from procurement;
- (viii) assigned urgency rating; and
- (ix) estimated cost.

Upon notification of availability by DIPEC, a DD Form 1419 will be submitted to DIPEC for each item accepted by the requestor. However, if DIPEC does not have the item available, or cannot furnish the item within the time specified by the requestor, DIPEC will furnish a statement of nonavailability including a certificate number. This statement will be the official Certificate of Nonavailability and will confirm that the plant equipment item has been screened against the idle inventory.

(h) The proposed acquisition of automatic data processing equipment as defined in 1-201.29 shall be (i) submitted through the Administrative Contracting Officer to Headquarters, Defense Logistics Agency, ATTN: Defense ADP Resource Office (DARO), Cameron Station, Alexandria, VA 22314, in accordance with DOD Manual 4160.19; and (ii) approved in accordance with 4-1104.13(a)(2).

13-302 Securing Approval for Facilities Projects.

(a) The Secretaries of the Military Departments or their designees and the Directors of Defense Agencies may approve requests for Government-owned facilities projects if—

- (1) the facilities projects that are funded from procurement appropriations will be approved on a location basis and shall not exceed \$5 million for all property efforts (expansion, modernization, rehabilitation, etc.) during 1 fiscal year;
- (11) it is a research and development-funded project that will not exceed \$1 million; or

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costs clearly benefit other profit centers, or the entire company, such costs shall be allocated through the G&A of such other profit centers or through the corporate G&A, as appropriate. In those instances when allocation of B&P through the G&A base does not provide equitable cost allocation, the contracting officer may approve use of a different base. Where allowable B&P is established by advance agreement pursuant to (d)(2)(A) below, the advance agreement shall specify the allocation procedures.

(d) Allowability.

(1) B&P administrative costs, when not separately identified and classified as B&P costs in accordance with the contractor's normal accounting practice, are allowable in accordance with the general principles of this Part 2 and are not subject to (2) (A) and (B) below.

(2) All other B&P costs (including all technical costs and any administrative costs separately identified and classified as B&P costs in accordance with the contractor's normal accounting practice) are allowable only in accordance with the following (but see 6-1304.3(a)(iv) and 6-1304.3(c)):

(A) Companies Required to Negotiate Advance Agreements (CWAS-NA)

(i) Any company which received payments, either as a prime contractor or subcontractor, in excess of \$4 million from the DoD for IR&D and B&P in a fiscal year, is required to negotiate an advance agreement with the Government which establishes a ceiling for allowability of B&P costs for the following fiscal year. Computation of the amount of IR&D and B&P costs to determine whether the \$4 million criterion was reached will include only those recoverable IR&D and B&P costs allocated during the company's previous fiscal year to all DoD prime contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with Section 2306(f) of Title 10, United States Code. The computation shall include full burdening in the same manner as if the IR&D and B&P projects were contracted for except that G&A will not be applied.

(ii) When a company meets the criterion in (i) above, required advance agreements may be negotiated at the corporate level and/or with those profit centers (see 3-1003.3) which contract directly with the DoD and which in the preceding year allocated recoverable IR&D and B&P costs in excess of \$500,000 including burdening as in (i) above, to DoD contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with Section 2306(f) of Title 10, United States Code. When ceilings are negotiated for separate profit centers of the company, the allowability of B&P costs for any center which, in its previous fiscal year, allocated less than \$500,000 of IR&D and B&P costs to such DoD contracts and subcontracts may be determined in accordance with (B) below.

(iii) Companies which meet the threshold in (i) above shall submit information to support their proposed B&P program in accordance with

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guidance furnished by the cognizant Tri-Service Departmental Office.

(iv) Ceilings are the maximum dollar amounts of total costs for B&P work that will be allowable for allocation to all work of that part of the company's operation covered by an advance agreement. Within the ceiling limitations contractors will not be required to share B&P costs. In negotiating a ceiling, in addition to other considerations, particular attention must be paid to such factors as:

A. The determination of the potential relationship of B&P projects to a military function or operation (see (v) below).

B. Comparison with previous year's programs including the level of the Government's participation.

C. Changes in the company business activities.

D. The extent to which the contractor's B&P program is well planned and managed.

(v) The total amount of B&P costs allocated to DoD contracts pursuant to this subparagraph (A) shall not exceed the total of expenditures for B&P projects with a potential relationship to a military function or operation. For contracts which do not provide for cost determinations on a historical basis, this requirement will be considered to have been met if the estimated B&P costs allocated to the contract do not exceed its proportionate share of the total estimated costs of B&P with a potential relationship to a military function or operation. B&P costs will be considered to satisfy the potential relationship requirement when the contractor can demonstrate that the effort under a proposed contract or grant would have a potential relationship to a military function or operation. The potential relationship of B&P will be determined by the contracting officer, and he will make the results of his determination available to the contractor.

(vi) No B&P costs shall be allowable if a company fails to initiate negotiations of a required advance agreement prior to the end of the fiscal year for which the agreement is required.

(vii) When negotiations are held with a company meeting the \$4 million criterion or with separate profit centers (when negotiations are held at that level under (ii) above) and an advance agreement is not reached, payment for B&P costs is required to be reduced substantially below that which the company or profit center would otherwise have received. The amount of such reduced payment shall not exceed 75% of the amount which, in the opinion of the contracting officer, the company or profit center would be entitled to receive under an advance agreement. Written notification of the contracting officer's determination of a reduced amount shall be provided the contractor. In the event that an advance agreement is not reached prior to the end of the contractor's fiscal year for which such agreement is to apply, negotiations shall immediately be terminated and the contracting officer's determination of the reduced amount shall be furnished.

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(1) *Basic research* is that research which is directed toward increase of knowledge in science. The primary aim of basic research is a fuller knowledge or understanding of the subject under study, rather than any practical application thereof.

(2) *Applied research* is that effort which (A) normally follows basic research, but may not be severable from the related basic research, (B) attempts to determine and exploit the potential of scientific discoveries or improvements in technology, materials, processes, methods, devices, or techniques, and (C) attempts to advance the state of the art. *Applied research* does not include efforts whose principal aim is design, development, or test of specific items or services to be considered for sale; these efforts are within the definition of the term "development," defined below.

(3) *Development* is the systematic use, under whatever name, of scientific and technical knowledge in the design, development, test, or evaluation of a potential new product or service (or of an improvement in an existing product or service) for the purpose of meeting specific performance requirements or objectives. *Development* includes the functions of design engineering, prototyping, and engineering testing. *Development* excludes subcontracted technical effort which is for the sole purpose of developing an additional source for an existing product.

(4) *Systems and other concept formulation studies* are analyses and study efforts either related to specific IR&D efforts or directed toward the identification of desirable new systems, equipments or components, or desirable modifications and improvements to existing systems, equipments, or components.

(5) *Company* includes all divisions, subsidiaries, and affiliates of the contractor under common control.

(b) *Composition of Costs.* IR&D costs shall include not only all direct costs, but also all allocable indirect costs except that general and administrative costs shall not be considered allocable to IR&D. Both direct and indirect costs shall be determined on the same basis as if the IR&D project were under contract.

(c) *Allocation.* As a general rule, IR&D costs shall be allocated to contracts on the same basis as the general and administrative expense grouping of the profit center (see 3-1003.3) in which such costs are incurred. However, where IR&D costs clearly benefit other profit centers, or the entire company, such costs shall be allocated through the G&A of such other profit centers or through the corporate G&A, as appropriate. In those instances when allocation of IR&D through the G&A base does not provide equitable cost allocation, the contracting officer may approve use of a different base. Where allowable IR&D is established by advance agreement pursuant to (d)(1) below, the advance agreement shall specify the allocation procedures.

(d) *Allowability.* Except as provided in (c) below, costs for IR&D are allowable only in accordance with the following (but see 6-1304.3(a)(iv) and 6-1304.3(c)):

(1) *Companies Required to Negotiate Advance Agreements (CWA/N/A).*

(A) Any company which received payments, either as a prime contractor or subcontractor, in excess of \$4 million from the DoD for IR&D and B&P in a fiscal year, is required to negotiate an advance agreement with the Government which establishes a ceiling for allowability of IR&D costs for the following fiscal year. Computation of the amount of IR&D and B&P costs to

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determine whether the \$4 million criterion was reached will include only those recoverable IR&D and B&P costs allocated during the company's previous fiscal year to all DoD prime contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with Section 2306(f) of Title 10, United States Code. The computation shall include full burdening in the same manner as if the IR&D and B&P projects were contracted for except that G&A will not be applied.

(B) When a company meets the criterion in (A) above, required advance agreements may be negotiated at the corporate level and/or with those profit centers (see 3-1003.3) which contract directly with the DoD and which in the preceding year allocated recoverable IR&D and B&P costs in excess of \$500,000 including burdening as in (A) above, to DoD contracts and subcontracts for which the submission and certification of cost or pricing data was required in accordance with Section 2306(f) of Title 10, United States Code. When ceilings are negotiated for separate profit centers of the company, the allowability of IR&D costs for any center which, in its previous fiscal year, allocated less than \$500,000 of IR&D and B&P costs to such DoD contracts and subcontracts may be determined in accordance with (d)(2) below.

(C) Companies which meet the threshold in (A) above shall submit technical and financial information to support their proposed IR&D program in accordance with guidance furnished by the Armed Services Research Specialists Committee. Results of the technical evaluation performed by the Armed Services Research Specialists Committee, including determination of potential relationship, will be made available to the contractor by the cognizant Departmental central office.

(D) Ceilings are the maximum dollar amounts of total costs for IR&D work that will be allowable for allocation to all work of that part of the company's operation covered by an advance agreement. Within the ceiling limitations contractors will not be required to share IR&D costs. In negotiating a ceiling, in addition to other considerations, particular attention must be paid to such factors as:

(i) The technical evaluation of the Armed Services Research Specialists Committee including the potential relationship of IR&D projects to a military function or operation.

(ii) Comparison with previous year's programs including the level of the Government's participation.

(iii) Changes in the Company's business activities.

(E) The total amount of IR&D costs allocated to DoD contracts pursuant to this subparagraph (1) shall not exceed the total of expenditures for IR&D projects with a potential relationship to a

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military function or operation. For contracts which do not provide for cost determinations on a historical basis, this requirement will be considered to have been met if the estimated IR&D costs allocated to the contract do not exceed its proportionate share of the total estimated costs of IR&D with a potential relationship to a military function or operation.

(F) No IR&D costs shall be allowable if a company fails to initiate negotiation of a required advance agreement prior to the end of the fiscal year for which the agreement is required.

(G) When negotiations are held with a company meeting the \$4 million criterion or with separate profit centers (when negotiations are held at that level under (B) above) and an advance agreement is not reached, payment for IR&D costs is required to be reduced substantially below that which the company or profit center would otherwise have received. The amount of such reduced payment shall not exceed 75% of the amount which, in the opinion of the contracting officer, the company or profit center would be entitled to receive under an advance agreement. Written notification of the contracting officer's determination of a reduced amount shall be provided to the contractor. In the event that an advance agreement is not reached prior to the end of the contractor's fiscal year for which such agreement is to apply, negotiations shall immediately be terminated and the contracting officer's determination of the reduced amount shall be furnished.

(H) Contractors may appeal decisions of the contracting officer to reduce payments. Such appeal shall be filed with the contracting officer within 30 days of receipt of a decision. For the purpose of hearing and deciding such appeals, each department will establish an appeals hearing group consisting of the following:

- (i) A representative to be designated by the Assistant Secretary (Installations and Logistics) or the Director, DSA, who shall be Chairman;
 - (ii) A representative to be designated by the Assistant Secretary (Research and Development) or ODDR&E in the case of DSA; and
 - (iii) A representative to be designated by the General Counsel, Judge Advocate General of the Department or Counsel of DSA. Determination of the appeals group shall be the final and conclusive determination of the Department of Defense.
- (I) Advance agreements negotiated shall include at least the following:

- (i) A separate dollar ceiling for IR&D. However, provision shall be made permitting the contractor to recover costs for IR&D above the negotiated ceiling, provided that recovery of B&P costs covered by the same agreement is decreased below its ceiling by a like amount.
- (ii) A provision stating how IR&D costs are to be allocated (see (c) above).

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(iii) A statement that the costs for IR&D work recoverable under contracts citing DoD funds subject to Section 203, P.L. 91-441 limitations shall not exceed A such contracts' allocable share of the ceiling, and B the total costs of the contractor's IR&D determined to have a potential relationship to a military function or operation.

(iv) A statement that estimated costs or actual costs incurred, as appropriate, not in excess of the ceilings negotiated shall be used in the pricing of all contractual actions when negotiations are based on elements of cost and in final price determinations.

(J) Prior to the execution of an advance agreement, the IR&D factor to be used for forward pricing and interim billing will be developed by and obtained from the cognizant central office of the Department responsible for negotiating IR&D advance agreements. The IR&D factor shall exclude estimated or actual costs for projects considered unrelated to a military function or operation.

(2) *Companies Not Required to Negotiate Advance Agreements (CWAS).* Allowable IR&D costs for companies not required to negotiate advance agreements in accordance with (I) above shall be established by a formula, either on a company-wide basis or by profit centers, computed as follows:

- (i) Determine the ratio of IR&D costs to total sales (or other base acceptable to the contracting officer) for each of the preceding three years and average the two highest of these ratios; this average is the IR&D historical ratio;
- (ii) Compute the average annual IR&D costs (hereafter called average), using the two highest of the preceding three years;
- (iii) IR&D costs for the center for the current year which are not in excess of the product of the center's actual total sales (or other accepted base) for the current year and the IR&D historical ratio computed under (i) above (hereafter called product) shall be considered allowable only to the extent the product does not exceed 120% of the average. If the product is less than 80% of the average, costs up to 80% of the average shall be allowable.
- (iv) Costs which are in excess of the ceiling computed in (iii) above are not allowable except where the ceiling computed for bid and proposal cost under 15-205.3 is reduced in an amount identical to the amount of any increase over the IR&D ceiling computed in (iii) above.

However, at the discretion of the contracting officer, an advance agreement may be negotiated when the contractor can demonstrate that the formula would produce a clearly inequitable cost recovery. The requirements of (d)(1) above are not mandatory for such agreements.

(e) *Deferred Costs (CWAS-NA).* IR&D costs which were incurred in previous accounting periods are unallowable, except when a contractor has developed a specific product at his own risk in anticipation of recovering the development costs in the sale price of the product provided that:

- (1) The total amount of IR&D costs applicable to the product can be identified,

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CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

This office is responsible for establishing procedures and practices which will assure appropriate distribution and utilization of performance evaluation data within the Departments.

(c) *Utilization of Performance Reports.* In the selection of fully qualified responsible contractors for future awards or negotiations of construction contracts above \$1,000,000, the contracting officer shall obtain from the central data bank (listed in (b) above) the following:

- (i) a record of the number of contracts and the total dollar amount for all satisfactory evaluations; and
- (ii) complete transcripts of all performance evaluations showing unsatisfactory performance either on individual elements or overall evaluation, or remarks on outstanding performance. These transcripts or statement(s) may be obtained for smaller awards.

18-107 Specifications. The technical provisions of construction specifications shall be in sufficient detail so that, when used with the applicable drawings and the specifications and standards incorporated by reference, bids can be prepared on a fair and competitive basis. Materials, equipment, components, or systems shall be described, where possible, by reference to documents generally known to industry. The documents include Federal, military, or nationally-recognized industry, and technical society specifications and standards. The standards which best represent no more and no less than the Government's minimum needs shall be selected for incorporation by reference into the construction specifications.

18-108 Government Estimates.**18-108.1 Construction Contracts.**

(a) Except for two-step formal advertising under Section II, Part 5, and negotiation under Section III without detailed plans and specifications, an independent Government estimate of construction cost in as great detail as if the Government were competing for the award shall be prepared from the plans and specifications for each proposed contract and modifications thereto, affecting price, anticipated to cost \$25,000 or more. The contracting officer, at his discretion, may require the preparation of such an estimate where the anticipated cost is less than \$25,000. Except as required below, access to or disclosure of information concerning the Government estimate shall be limited to Government personnel whose official duties require knowledge of the estimate.

(b) The Government estimate shall be designated "For Official Use Only" unless the nature of the information therein requires a security classification, in which event it shall be handled in accordance with applicable security regulations. The "For Official Use Only" designation shall be removed only when the estimate is made public in accordance with instructions below.

(c) If the procurement is by formal advertising, except two-step formal advertising, a sealed copy of the detailed Government estimate shall be filed with the bids until bid opening. After the bids are read and recorded, the "For Official Use Only" designation shall be removed and the estimate shall be read and recorded in the same detail as the bids.

(d) If the procurement is by negotiation, cost breakdown figures in the Government estimate may be disclosed during negotiations but only to the extent deemed necessary for arriving at a fair and reasonable price and provided that the overall amount of the Government estimate, however, is not thereby disclosed.

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prior to award. At the time of award the "For Official Use Only" designation shall be removed. After award, the Government estimate may be revealed, upon request, to those firms or individuals who submitted proposals.

18-108.2 Architect-Engineer Contracts. An independent Government estimate of the cost of architect-engineer services in the same detail as if the Government were submitting a proposal shall be prepared prior to the negotiation of each proposed contract or modification thereto, affecting price, expected to exceed \$2,500 in amount. The cost breakdown figures in the Government estimate may not be disclosed prior to negotiations; but, these cost breakdown figures may be revealed during negotiations to the extent deemed necessary for arriving at a fair and reasonable price, and provided, however, that the overall amount of the Government estimate is not disclosed. Any change in the Government estimate that is made during or subsequent to price negotiation shall be specifically but succinctly explained in the record of price negotiation.

18-109 Disclosure of Magnitude of Construction Projects. Where the estimated value of the work is \$25,000 or more, advance notices or invitations for bids and requests for proposals shall include a statement of the magnitude in terms of physical characteristics of the proposed construction and the estimated cost thereof stated in ranges between \$25,000 and \$100,000; between \$100,000 and \$250,000; between \$250,000 and \$500,000; between \$500,000 and \$1 million; between \$1 million and \$5 million; between \$5 million and \$10 million; and over \$10 million. Where the estimated value of the work is less than \$25,000, advance notices or invitations for bids and requests for proposals shall include a statement that the estimated cost of the proposed construction is under \$25,000.

18-110 Statutory Cost Limitations.

(a) Contracts for construction shall not be awarded at a price in excess of statutory cost limitations unless the limitations for the particular contract can be and have been waived and shall not be awarded at a price, which, with allowances for Government imposed contingencies and overhead, exceeds the statutory authorization for the project.

(b) Invitations for bids and requests for proposals containing one or more items subject to statutory cost limitations shall state in a separate schedule the applicable cost limitation for each item subject to a specific statutory cost limitation. Invitations for bids and requests for proposals shall state specifically that a bid or proposal which does not contain prices for the individual schedules will be considered nonresponsive. Bids or proposals shall contain a certification that each such price includes an approximate apportionment of all estimated applicable costs, direct and indirect, as well as overhead and profit.

(c) A bid or proposal containing prices within statutory cost limitations only because such bid or proposal is materially unbalanced shall be rejected. An unbalanced bid or proposal is one which is based on prices significantly less than cost for some work, and prices which are overstated for other work. A bid or proposal containing prices that exceed applicable statutory cost limitations shall be rejected, unless for construction of cold storage or regular (general purpose) warehousing, barracks for enlisted personnel or bachelor officer's quarters, and the determination of the Assistant Secretary of Defense (Installations and Logistics) has been obtained that the limitations on construction costs in the annual

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(g) *Code J. Foreign Military Sales.* Enter this code if the procurement is known to be under Foreign Military Sales arrangements, or under any other arrangements whereby a foreign country or international organization undertakes to bear the cost of the procurement. When Code J is entered no entries shall be made in Items 16 through 22.

1. Code J will be entered for Foreign Military Sales purchases from or through other Federal agencies, e.g., GSA Federal Supply Schedules, except that all awards to Small Business Administration will be reported in accordance with 21-102(e).

2. If only part of a procurement action is of the kind described above, that part (if in excess of \$10,000) shall be reported on one DD Form 350, and the other part (if in excess of \$10,000) shall be reported on a second DD Form 350.

21-124 Item 16, Type of Business Concern. Letter contract amendments, delivery orders against indefinite delivery type contracts, change orders, supplemental agreements, exercise of options, incremental yearly buys under multiyear contracts, and other modifying actions made pursuant to the terms of existing contracts shall be reported the same as the basic contract to which they apply. However, where a modification is for procurement of additional quantities or extends the scope of work under the contract, the size of concern will be determined as of the date of the modifying action.

(a) *Awarded to Large Business Because Small Business:* Enter one of Codes A through D if the contractor is a large concern and the place of performance (Item 7) is within the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands (see DoD Procurement Coding Manual, Volume II, page v), as follows:

- (i) Enter Code A when no small business source was solicited for a bid or proposal.
- (ii) Enter Code B when a small business source was solicited, but no bid or proposal was received from small business, or small business did not offer sufficient quantity to cover total requirements but received award for that portion bid on.
- (iii) Enter Code C when a small business source was solicited, but the low bid or proposal was not from small business, or small business was not willing to accept award of a set-aside portion of a procurement at the prices offered as determined by the price the Government would otherwise have had to pay.
- (iv) Enter Code D when a small business source was solicited, but small business was not awarded the contract for reasons other than those coded A, B, or C.

(b) Enter Code J, if the award was made to a small business concern as defined in 1-701.1 and the place of performance (Item 7) was within the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands. Also see 21-102(e) for reporting 8(a) awards to Small Business Administration.

(c) Enter Code L, if the principal place of performance (Item 7) was outside the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands. See DoD Procurement Coding Manual, Volume II, page v.

(d) Enter Code M, N, or P, if the award was made to a nonprofit institution and the place of performance (Item 7) was within the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands. A nonprofit institution is defined as any corporation, foundation, trust, or institution not organized for profit, no part of the net earnings of which inure to the benefit of any

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private shareholder or individual. Included are educational and scientific institutions of a nonprofit nature, and State, local, and other non-Federal government agencies. Enter Code M if the contractor in Item 6 is an Educational Institution, Code N if a hospital, and Code P for all other nonprofit institutions.

(e) Enter Code R if the award is made to an overseas firm, and the place of performance (Item 17) is within the United States, its possessions, Puerto Rico, and the Trust Territory of the Pacific Islands.

21-125 Item 17, Negotiated Under 10 USC 2304(a) Exception. This entry applies only to negotiated procurement actions.

(a) Negotiation of original contracts and of amendments for additional quantities or services shall cite as authority for such negotiation the authority of 10 U.S.C. 2304(a), which applies as specified by the appropriate "Determination and Findings" or other required Departmental procedure. Negotiations of all other amending actions which are negotiated in accordance with the provisions of the basic contract and have not been made subject to a separate "Determination and Findings" shall cite as authority for such negotiation the authority under 10 U.S.C. 2304(a) which was cited as authority for negotiating the basic contract. If a supplemental agreement is used to award the set-aside portion of a contract to a small business concern which has obtained the non-set-aside portion, separate DD Forms 350 shall be used to report the set-aside and non-set-aside portions (see 1-706.6(d)(2)).

(b) Enter Code 1A to record negotiated actions pertaining to labor surplus area or industry set-asides. Labor Surplus Set-Aside designates a method of procurement whereby a portion of the requirement is withheld from general solicitation (either formally advertised or negotiated), and is reserved for negotiation exclusively with labor surplus area concerns as defined in 1-801.1.

(c) Enter Code 1B to record negotiated actions pertaining to small business set-asides made unilaterally by a Department of Defense contracting officer. Small Business Set-Aside designates a method of procurement whereby either the total amount or a portion of a requirement is withheld from general solicitation and is reserved exclusively for small business concerns. These procurements are considered "negotiated" regardless of whether the contract is awarded by Small Business Restricted Advertising.

(d) Enter Code 1C to record negotiated actions pertaining to major disaster area set-asides. Major Disaster Area Set-Aside designates a method of procurement whereby either the total amount or a portion of a requirement is withheld from general solicitation and is reserved exclusively for firms located in major disaster areas and is to be performed substantially within such major disaster areas.

(e) Enter one of the codes from 2 through 16, as appropriate, when negotiation was accomplished pursuant to 10 U.S.C. 2304(a) (2), (4), (5), (6), (7), (8), (9), (11), (12), (13), (14), (15), or (16).

(f) Enter one of the codes from 10-1 through 10-26, as appropriate, when negotiation was accomplished pursuant to 10 U.S.C. 2304(a) (10). The procurement circumstances applicable to the negotiation as described in 3-210.2 are set

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(d) (1) A contract shall be reported as "price competition" if offers were solicited and received from at least two responsible offerors capable of satisfying the Government's requirements wholly or partially, and the award or awards were made to the offeror or offerors submitting the lowest evaluated prices. However, a contract may also be reported as "price competition" even though only one offer is received when offers are solicited from at least two responsible offerors who normally contend for contracts for the same or similar items.

(2) Procurements shall not be reported as "price competition" where only one responsive offer was received and the solicitation was restricted to a prime contractor and his vendor for that item.

(3) Multiple awards in such areas as subsistence, clothing and equipage, and other commodities where several awards normally result from one solicitation may be reported as "price competition," even though the total quantity of the solicitation is not awarded, if in the judgment of the contracting officer there are sufficient facts to support a valid finding of "price competition."

(4) Transactions shall not be reported as "price competition" solely on the basis of the number of solicitations made. Contracting officers shall consider the content of the responses to solicitations, the procurement history of the items procured, and other relevant information, and shall exercise sound judgment in the reporting of transactions as "price competition."

(e) Design or technical competition is present when two or more qualified sources of supply are invited to submit design or technical proposals, with the subsequent contract award based primarily on this factor, rather than on a price basis. Many research and development contracts, and many initial contracts for new military weapons fall into the category of design or technical competition. If some measure of price competition is present but the contract cannot be reported as a "price competition" award consistently with (d) above, the contract should be reported as a "design, technical, or other competition" award.

(f) A follow-on contract means a new procurement (whether placed by a separate new contract or by a supplemental agreement) placed with a particular contractor to continue or augment a specific military program in instances where such placement was necessitated by prior procurement decisions. Incremental yearly buys under multi-year contracts and exercise of options shall not be included in this category, except as provided in (h) below. An example of a follow-on contract is one which by force of circumstances had to be awarded to a contractor who was just completing a research and development contract in the same program. Other examples of follow-on contracts include those for support equipment, maintenance support, technical representatives or spare parts which have been awarded without competition to the contractor because he furnished the original equipment. Follow-on contracts in which the selection of the contractor at the inception of the program was on a competitive basis (i.e., price or design or technical) will be reported as Code 3 or 4 as appropriate. Follow-on contracts in which the selection of the contractor at the inception of the program was on a noncompetitive basis will be reported as Code 5. Nothing in the foregoing should be construed as providing authorization for noncompetitive procurement. DAR provisions requiring either formal advertising or competitive negotiation shall be complied with.

(g) Codes 1 through 7 shall be entered as follows:

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forth as 10-1 through 10-18 representing (i) through (xviii). However, Negotiation Exception 10-18 pertains to purchases under Foreign Military Sales arrangement which for reporting purposes does not require an entry in Item 17; therefore, codes 10-18 will not be used. Codes 10-19 through 10-25 may be used for those procurement circumstances which are authorized in Departmental instructions and for additional procurement circumstances later approved and published in the DAR. Enter Code 10-26 if none of the procurement circumstances set forth in 3-210.2 or Departmental instructions is applicable.

(g) Enter Code 17A when reporting Joint Small Business Set-Asides pursuant to 15 U.S.C. 644 (P.L. 85-536), i.e., set-asides agreed to jointly by the Small Business Administration representative and the Department of Defense contracting officer. (See definition of set-aside for Code 1B above.) Enter Code 17B when any other public law authorized the negotiation, and in the space provided specify the number of the public law or U.S. Code citation. For repurchase actions following default, where no other negotiation authority is utilized, enter Code 17B and specify the words "Repurchase Action".

21-126 Item 18, Extent of Competition in Negotiation.

(a) The purpose of this item is to provide statistics reflecting the extent and kind of competition obtained under contracts executed pursuant to the negotiation authorities of the DAR. Detailed information with respect to the presence or absence of competition in negotiated procurement is of vital importance to the Department of Defense. Information obtained from these reports is used throughout the Department for internal management purposes. Additionally, this information is provided to various Committees of the Congress on a continuing basis. It is critically important that this item receive careful attention by reporting activities to ensure its completeness and accuracy.

(b) Provision is made to record the extent of competition as follows:

- (i) price competition;
- (ii) design, technical, or other competition;
- (iii) follow-on actions after price competition;
- (iv) follow-on actions after technical or other competition;
- (v) other noncompetitive actions;
- (vi) catalog or market price actions; and
- (vii) not considered for competition.

(c) The following contract actions are exempt from reporting the extent of competition and shall be entered as Code 7:

- (i) awards for brand name items for commissary resale;
- (ii) awards to nonprofit institutions;
- (iii) awards to regulated monopolies for utilities where the price negotiated is based on prices set by law or regulation; and
- (iv) awards made pursuant to Section 8(a), Small Business Act (15 U.S.C. 637(a)).

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\$500,000 or more; DD Forms 1499 shall not be prepared for (i) types of pricing with less than aggregate cost and profit of \$500,000, (ii) cost-no-fee, or (iii) firm fixed-price without a negotiated cost and profit.

(n) *Item 13, Negotiation Summary.*

(1) Enter dollar amounts applicable to lines a. through f. as proposed by the contractor, the Government's objective, and the negotiated amounts. These entries shall be to the nearest whole dollar; do not show cents, or make entries involving cent positions. For example, \$568,035.54 shall be entered as \$568,036 and not as \$568,036.00; \$500,500.49 shall be entered as \$500,500.

(2) The dollar entries shall reflect the entire reportable amounts negotiated in the contractual agreement, not merely the portion obligated. Thus, awards contemplating incremental funding shall be reported as total negotiated cost and profit at the time of initial award, not as the amounts initially obligated. However, amounts applicable to options for additional quantities shall be excluded unless the options are exercised. When options are exercised, a report shall be submitted if the amounts meet the dollar threshold of 21-302.

(3) For cost-plus-award-fee (CPAF) contracts, only the base fee shall be reported.

(4) For indefinite delivery-type contracts, the amounts reported shall reflect the best estimate of the annual requirement on the first reportable delivery order.

(5) Enter on line g. the cost of money percentage rate proposed by the contractor, obtained from block 1 of the CASB-CMF form. The objective and negotiated rate will be the cost of money percentage rate used on the DD Form 1861.

(o) *Item 14, Weighted Guidelines Profit Factors (see DD Form 1547).* If weighted guidelines are used, show the measurement base and profit/fee dollars in whole numbers in accordance with (n) above. If the weighted guidelines are not used to develop the prenegotiation profit objective, enter the measurement bases on line a. and complete only lines e., f., and g. The manufacturing guidelines adjustment, line a.(11), shall be completed only for contracts coded A in item 11 and must equal 30 percent of the amount entered on line a.(10). The cost of money adjustment, line e., shall be completed for all contracts coded as B, C, or D in item 11 and must equal the objective amount in item 13.b.

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Part 4—Report of Contract Awards to Organizations Under Section 15(c) of the Small Business Act (15 USC 644)

21-400 Scope of Part. This Part deals with reporting of contracts awarded to certain nonprofit organizations; i.e., National Industries for the Blind and National Industries for the Severely Handicapped (NIB/NISH).

21-401 Applicability.

(a) Each contracting activity making awards to organizations under Section 15(c) of the Small Business Act (15 USC 644) shall, within 5 calendar days of the date of award for Fiscal Years 1981, 1982 and 1983, notify the Director, Office of Procurement and Technical Assistance, SBA, 1441 L Street, N.W., Washington, D.C. 20416, in writing, of the following data.

(i) total dollar amount of the award;

(ii) PIIN;

(iii) date of award;

(iv) item description; and

(v) name and size status of the immediate past supplier of each supply item or service.

(b) In addition, solicitations issued pursuant to 1-706.5, 1-706.6 and 1-706.7 that were originally estimated over \$10,000 but resulted in awards of less than \$10,000 shall also be reported. The contracting activity shall provide a copy of this notification to:

Directorate of Information Operations and Reports
Washington Headquarters Services
Department of Defense
Washington, D.C. 20301

(c) It should be noted that awards made from the Procurement List of Supplies and Services provided by the Blind and Other Severely Handicapped shall not be reported under this requirement. (See Section V, Part 5.) Reports Control Symbol * has been assigned to this reporting requirement.

* Reporting suspended until RCS Number is published in a forthcoming DAC.

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(c) *76th Through 90th Day.* During this period the General Services Administration will provide for the screening of all remaining property by eligible donees for possible donation (see 24-207).

24-205.3 *Procedures for Industrial Plant Equipment.*

(a) *Reporting Idle Industrial Plant Equipment.* Industrial plant equipment, identified in 13-312 and having an acquisition cost of \$1,000 or more, shall be listed on DD Form 1342, DoD Property Record (see B-306.1, C-306.1 and F-200.1342). The DD Form 1342 shall be prepared by the contractor and submitted to the assigned Government property administrator for appropriate review and transmittal to the plant clearance officer. If the industrial plant equipment has numerically controlled features, the contractor shall prepare and submit DD Form 1342, Section VI (page 2), Numerically Controlled Machine Data (see F-200.1342). Upon receipt of acceptable DD Form 1342, the plant clearance officer will designate the 75th day from that date as the ARD, with the 90th day from that date as the SCD. The ARD will be entered in block 24 of the DD Form 1342 and shall not be extended, except as provided in (e) below. The plant clearance officer will forward two copies of the DD Form 1342 to the Defense Industrial Plant Equipment Center, Memphis, Tennessee, see 38114, for all industrial plant equipment in condition codes other than "X." Condition code "X" industrial plant equipment shall be processed in accordance with 24-205.1(e). The DD Form 1342 shall be forwarded to DIPEC within 15 working days after becoming idle. No other distribution of this form will be made by the plant clearance officer.

(b) *Screening—First Through 30th Day.* DIPEC shall screen excess industrial plant equipment against all requirements submitted by Department of Defense activities, including Department of Defense reserve requirements, with priority being given to requirements of the owning Department through the 30th day. DIPEC will issue a shipping instruction containing appropriate accounting, funding, transportation, routing recommendations, and preservation instructions for items selected to the appropriate contract administration office.

(c) *Screening—31st Through 75th Day.* On the 31st day, DIPEC will forward excess data to the applicable General Services Administration regional office for Federal utilization screening through the 75th day. During the period from the 31st through the 75th day, the General Services Administration will approve requests from any agency of the Government on a "first come-first served" basis and will approve and forward transfer orders containing appropriate accounting, funding, transportation, routing recommendations, and preservation instructions to the appropriate contract administration office. The General Services Administration will forward copies of the approved transfer orders to DIPEC.

(d) *Screening—76th Through 90th Day.* During this period the General Services Administration will provide for the screening of all remaining industrial plant equipment for possible donation. The General Services Administration will receive and approve donation applications for industrial plant equipment and will forward approved donation applications, containing appropriate accounting, funding, transportation, routing recommendations, and preservation instructions to the appropriate contract administration office. The General Services Administration will forward copies of the approved donation applications to DIPEC.

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complete and specific reasons for screening items normally exempt from screening; and

(v) perishables, property bearing a military security classification, and property dangerous to public health or safety.

(g) Upon completion of screening in accordance with 24-205.2(a), property cited in (f) above, with the exception of (f) (v), will be subject to the provisions of (e) above.

(h) Automatic data processing equipment, including that on lease in which the Government is entitled to rental benefits, shall be screened in accordance with 24-205.8.

(i) Contractor inventory located in foreign countries does not require screening with General Services Administration (GSA) in accordance with 24-205.2 and 24-205.3.

24-205.2 *Procedure.*

(a) *First Through 30th Day.* Promptly upon receipt of acceptable inventory schedules from the contractor, serviceable or usable property shall be screened within the procuring Department (see 5-1101.4) and the requiring Department (see 5-1101.3) if such Department is not the procuring Department. The requiring Department shall have first priority for retention of listed items. Such screening shall be completed within 30 days or less. The schedules shall be transmitted with Standard Form 120, Report of Excess Personal Property, reflecting the ARD and SCD and appropriately identified as contractor inventory.

(b) *31st Through the 75th Day.* Four copies of the inventory schedules reflecting deletions of all retained items shall be mailed or otherwise delivered by the plant clearance officer to the General Services Administration regional office serving the region in which the property is located, not later than the 31st day from and including the day the acceptable schedules were received by the plant clearance officer. The schedules shall be transmitted with Standard Form 120, Report of Excess Personal Property, reflecting the ARD and SCD and appropriately identified as contractor inventory. At the time of transmittal to the General Services Administration, information copies of the revised inventory schedules shall be forwarded to the other Departments whenever aeronautical or electronic material and equipment is involved. When requests for transfers are received from the procuring or requiring Department after the 31st day and prior to receipt of General Services Administration transfer order, the plant clearance officer shall immediately notify the General Services Administration Regional Office that the items have been withdrawn and are no longer available for General Services Administration screening. Notification shall include identification of the applicable Standard Form 120, the contractor's name, location, and contract number. The General Services Administration will prepare and issue circulars and catalogs to all agencies of the Government within the region. Property selected as a result of reviewing the General Services Administration circulars or catalogs will be requested from the General Services Administration Regional Office that issued the circular or catalog. Department of Defense activities requesting listed property will have priority on a "first come-first served" basis for such property through the 60th day. Thereafter, the General Services Administration will honor requests for any agency of the Government for transfer of property on a "first come-first served" basis. The General Services Administration will transmit approved orders and shipping instructions for property to be transferred to the Department of Defense activities from which it received the inventory schedules. Such orders and instructions shall be promptly honored and delivery authorized.

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(ii) scrap produced from Government-owned material is insignificant in consideration of the cost of segregation and control, or (iii) Government contracts involved are fixed-price in nature and provide for the retention of the scrap by the contractor; or

(e) when otherwise approved by the property administrator.

B-104 Audit of Property Control System. The contractor's Government property control system shall be audited by the Government as frequently as conditions warrant. Any such audit or audits may take place at any time during the performance of the contract, upon completion or termination of the contract, or at any time thereafter, during the period the contractor is required to retain such records. The contractor shall make all such records, including correspondence related thereto, available to the auditors.

B-105 Administration of Military Property. Due to the special nature of military property, the contract under which it is provided generally will contain specific requirements for maintenance and control. Moreover, the following conditions shall be observed: (i) each item of the property shall be identified by its Federal item identification number and Government nomenclature; and (ii) upon the completion or termination of the contract, the contractor shall request and comply with disposition instructions from the contracting officer. To the extent specified in the contract, provisions of this Appendix shall apply to military property.

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Part 2—Contractor's Responsibility

B-200 Scope of Part. This Part covers to the extent not otherwise provided in the contract, (i) the duties and responsibilities of the contractor with respect to Government property, (ii) the obligations of the contractor with respect to the control of Government property, both physically and administratively, and (iii) the liability of the contractor for Government property lost, damaged, destroyed, or for which the contractor is otherwise unable to account.

B-201 Assumption of Responsibility. A contractor shall be responsible for all Government property in his possession or control in accordance with the terms of the contract including property provided under such contract which may be in the possession or control of a subcontractor. Sources from which Government property may be furnished or acquired are as follows:

(a) *Military Installations or Other Contractor's Plants.* Government property may be shipped to a contractor from military installations, other Government installations, or plants of Military Departments or other Government Agency contractors. For the purpose of this Appendix, the contractor shall become responsible for such property upon delivery of the property into his custody or control. The shipping activity shall furnish the contractor with copies of documents necessary to permit the contractor's property records to accurately reflect the transaction.

(b) *Direct Purchase by the Contractor.* Direct purchases shall be subject to a determination by the administrative contracting officer (ACO) that the items are allocable to the contract involved and are reasonably necessary. In the case of purchase authorization of IPE, such authorization shall include a citation of a DIPEC certificate of nonavailability number including a date by which the IPE must be purchased by the contractor. In addition to acquiring technical (maintenance) data for new facilities, a description of the features of numerically controlled facilities on DD Form 1342, Section VI (page 2), shall also be acquired (see B-306.1, C-306.1, and F-200.1342). Acquisition of new numerically controlled facilities shall include the requirement for the builder to complete Section VI of DD Form 1342 in triplicate, affix one copy to inside of numerical control cabinet door in a manner to preclude removal or destruction, place two copies in an envelope, and tape to door near the first copy. For purposes of property control within the scope of this Appendix, it shall be considered that property purchased by the contractor, for which reimbursement is to be requested, becomes Government property upon its receipt by the contractor. This provision shall not be deemed to alter or modify contractual provisions relating to passage of title.

(c) *Withdrawal From Contractor-Owned Stores.* For purposes of property control, within the scope of this Appendix, property withdrawn from contractor-owned stores, for direct charge to the contract, shall be considered Government property at the time of approval of the claim for reimbursement, or at the time of issuance for use of such property for the performance of the contract, whichever is earlier.

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(d) *Contract Provisions, Terminations, Contract Changes.* Pursuant to specific contractual provisions, or as a result of termination of a contract, or change orders issued under a contract, the Government may acquire title to property. For purposes of property control, such property shall, unless otherwise provided by the contract, be considered Government property upon acceptance of title by the Government.

(e) *Advance, Progress, or Partial Payments.* Pursuant to the terms of a contract, the Government may acquire a lien or title to property upon the making of advance, progress, or partial payments to the contractor. Property to which the Government has acquired a lien or title solely as a result of advance, progress, or partial payments shall not be subject to the provisions of this Appendix.

B-201.1 Evidence of Receipt of Government Property. The contractor shall furnish written receipts for all, or specific classes of Government-provided property only in those instances where such action is determined by the property administrator to be essential for maintenance of minimum acceptable property controls. Where such evidence of receipt is required for contractor-acquired property, it shall be provided by the contractor not later than the time he submits his application for payment (public voucher) for the property. In the instance of Government-furnished property, the required receipt shall be provided by the contractor immediately upon receipt of the property.

B-201.2 Discrepancies Incident to Shipment.

(a) *Government-Furnished Property.* When overages, shortages, or damages are discovered upon receipt of Government-furnished property, the contractor shall provide a statement of the condition and the apparent causes in accordance with procedures approved by the property administrator pursuant to B-101. When the quantity or description of property received by a contractor differs from the quantity or description denoted as shipped on the shipping document, only that quantity, or property, actually received will be recorded on the official records of the contractor.

(b) *Contractor-Acquired Property.* The contractor shall take all actions necessary in adjustment of overages, shortages, or damages in shipment of contractor-acquired property from a vendor or supplier except in those instances wherein the shipment has moved via Government bill of lading and carrier liability is indicated. In the latter event, the contractor shall report the instance in accordance with (a) above.

B-202 Relief From Responsibility. Subject to specific instructions of the contracting officer, and unless otherwise provided for in the contract, the contractor shall be relieved of his property control responsibility for Government property by the following:

(a) *Consumption of Property in the Performance of the Contract.*—To the extent that the property administrator determines that property has been consumed or expended for proper purposes and in reasonable amounts in the performance of the contract;

(b) *Retention by the Contractor.*—When the contractor retains with the approval of the contracting officer Government property for which the Government has received consideration;

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(c) *Sale of Property.*—For Government property sold pursuant to instructions of the plant clearance officer; *provided*, that the proceeds of such sale shall have been received by or credited to the Government;

(d) *Shipment of Government Property From a Contractor's Plant.*—When Government property is shipped from the contractor's plant (except when shipments are to a subcontractor or other location of the contractor) pursuant to the instructions of the plant clearance officer or the property administrator; or

(e) *Determination by the Contracting Officer.*—For Government property which is lost, damaged, destroyed, or consumed in excess of that normally anticipated in a manufacturing or processing operation, and for which the contracting officer has determined the extent of liability, if any, of the contractor; *provided* that:

(i) such determination is furnished to the contractor in writing;

(ii) the Government has been reimbursed where required by the determination; and

(iii) proper disposition of property rendered unserviceable by damage has been accomplished, and appropriate cross-reference is recorded on the determination as to the shipping document or other documents evidencing disposal.

B-203 Contractor's Liability.

(a) Subject to the terms of the contract, the contractor may be liable when shortages of Government property are disclosed or when Government property is lost, damaged, or destroyed, or when there is evidence of unreasonable use or consumption of Government property as measured by the allowances provided for by the terms of the contract, the bill of material, or other appropriate criteria.

(b) The contractor shall report all cases of loss, damage, or destruction of Government property in his possession or control to the property administrator as soon as such facts become known or when requested by the property administrator. The report shall be furnished when completed and accepted products, or end items are lost, damaged, or destroyed while such property is in the possession or control of the contractor.

(c) The contractor shall require any of his subcontractors having Government property in their possession or control which is accountable under the contract to report to him all instances of loss, damage, or destruction of such Government property. Further procedures shall be in accordance with that prescribed in (a) and (b) above.

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preparation and forwarding. AR 700-43/NAVSUP PUB 5009/AFM 78-9/DLAM 4215.1 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(b) IPE is identified by noun name in Joint DoD IPE Handbooks as listed in 13-312. Additional handbooks and page changes to existing handbooks, with asterisks denoting additions to the IPE scope, shall be published as required. Reporting of newly listed items which are in the possession of the contractor shall be accomplished within 180 days following the date of the new handbook or the page change.

B-307 Records of Real Property.

(a) Records of real property shall consist of maps, drawings, plans, and specifications supplemented, where necessary to reflect building installations such as heating, electrical, sanitary, ventilating, drainage, sprinkler systems, etc. Appropriate changes will be made to the records to reflect alterations, additions, or extensions to real property. Where the maps, drawings, plans, and specifications do not adequately reflect descriptive data as to buildings installations, supplemental records will be maintained. The foregoing records will: (i) be complete, (ii) show the original cost of the property and improvements and the cost of changes and additions thereto, and (iii) be appropriately indexed.

(b) Costs incurred by the contractor or the Government for new construction, including erection, installation or assembly, of Government real property in possession of the contractor, shall be capitalized in the real property records and financial accounts maintained by the contractor for the Government.

(c) Costs incurred for additions, expansions, extensions, conversions, alterations, and improvements including applicable portions of capital maintenance to Government real property which increase the value, life, utility, capability and/or serviceability, shall be capitalized.

(d) Costs incurred in the following circumstances shall not be capitalized in the Government real property records or financial accounts:

(i) A facility is specifically constructed for test purposes which include destruction of the facility.

(ii) The building is designed to be portable.

(c) Costs incurred for maintenance, repair and/or rearrangement of Government real property which maintain the property in good physical condition, utility, capacity, and/or serviceability, shall be charged to expense, and the real property records shall not be affected. See (c) above for costs which shall be capitalized.

(f) When Government-owned real property is sold, transferred, donated, destroyed by fire or other cause, abandoned-in-place or condemned, the financial accounts shall be reduced by the presently recorded cost and the real property records annotated with a supporting statement including pertinent facts.

B-308 Records of Scrap and Salvage. Except as provided in B-103(d), the contractor shall maintain records of all scrap or salvage generated. These records shall be in accordance with the contractor's established system of scrap and salvage control, if approved by the property administrator, who shall take into consideration the need for protecting the Government's interest in the proration, disposition, and allocation of proceeds resulting therefrom.

B-308.1 Records of Scrap. The contractor's property control system shall be such as to provide the following minimum information:

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Item of an individual item record for each component comprising the item of plant equipment. This does not obviate the requirement for adequately describing the component items on the plant equipment record nor does it preclude the use of more than one plant equipment record form when additional space is required.

(d) Plant Equipment Costing Less Than \$1,000. Except where individual item records are necessary for effective control, calibration, or maintenance, summary stock records may be maintained for plant equipment costing less than \$1,000 per unit. The contractor's property control system shall be such as to provide the following minimum information:

(i) contract number or equivalent code designation;

(ii) noun name, Federal Supply Classification in Cataloging Handbooks H2-1, H2-2 and H2-3;

(iii) manufacturer or Federal Supply Code for the manufacturer and model/part number;

(iv) quantity received;

(v) balance on hand;

(vi) posting reference and date of transaction;

(vii) unit price;

(viii) location (see B-301(g)); and

(ix) disposition.

In addition, where appropriate as determined by the property administrator the serial number and/or Government identification number for each item shall be recorded in a permanent manner in the property records and, upon disposition, lined out or otherwise deleted from the record. DD Form 1342 may be used for individual record cards for items costing less than \$1,000.

B-306.1 Centrally Reportable Industrial Plant Equipment.

(a) The contractor shall prepare a DD Form 1342 (Appendix F, F-200.1342) for each item of equipment identified as Industrial Plant Equipment (IPE), including items which, though part of a manufacturing system, would otherwise qualify as industrial plant equipment. Section VI (page 2) of the DD Form 1342 will be prepared for each item of IPE with numerically controlled features. General purpose components of special test equipment, which would otherwise qualify as IPE, should not be reported until there is no longer a requirement for the test equipment. The DD Form 1342, including Section VI, as appropriate, will be prepared in accordance with instructions contained in AR 700-43/NAV-SUP PUB 5009/AFM 78-9/DLAM 4215.1, Management of Defense-Owned Industrial Plant Equipment (IPE), at the time (1) of receipt and acceptance of accountability by the contractor; (2) major changes as specified by DLAM 4215.1 occur in the data initially submitted to DIPEC; (3) IPE is no longer required for the purpose authorized or provided; or (4) disposal is completed. The DD Form 1342 prepared at the time IPE is no longer required for the purpose authorized or provided shall reflect all changes in data not previously reported to the Defense Industrial Plant Equipment Center (DIPEC). The contractor shall retain the original of each DD Form 1342 which may be used as the official property record. Copies of the DD Form 1342, including Section VI, as appropriate, shall be forwarded directly to DIPEC through the property administrator. Each DD Form 1342 will be prepared and forwarded within 15 working days after the event which created the need for its

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C-103 Segregation or Commingling of Government Property and Contractor's Property. Ordinarily, Government property, particularly material, should be segregated and kept physically separate from contractor-owned property at all times. However, when advantageous to the Government and consistent with the contractor's authority to use such property, the property may be commingled:

(a) when the Government property is special tooling, special test equipment, or plant equipment which is clearly identified and recorded as Government property;

(b) when (i) scrap of a uniform nature is produced from both Government-owned and contractor-owned materials and physical segregation is impracticable, (ii) scrap produced from Government-owned materials is so insignificant in consideration of the cost of segregation and control;

(c) when approved by the property administrator.

C-104 Audit of Property Control System. The contractor's Government property control system shall be audited by the Government as frequently as conditions warrant. Any such audit or audits may take place at any time during the performance of the contract, upon completion or termination of the contract, or at any time thereafter, during the period the contractor is required to retain such records. The contractor shall make all such records, including correspondence related thereto, available to the auditors.

C-105 Administration of Military Property. Due to the special nature of military property, the contract under which it is provided generally will contain specific requirements for maintenance and control. Moreover, the following conditions shall be observed:

- (i) each item of the property shall be identified by its Federal Item Identification Number and Government nomenclature; and
- (ii) upon the completion or termination of the contract, the contractor shall request and comply with disposition instructions from the contracting officer.

To the extent specified in the contract, the provisions of this Appendix with respect to all Government property shall apply to military property.

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Part 2—Contractor's Responsibility

C-200 Scope of Part. This Part covers to the extent not otherwise provided in the contract, (i) the duties and responsibilities of the contractor with respect to Government property, (ii) the obligations of the contractor with respect to the control of Government property, both physically and administratively, and (iii) the liability of the contractor for Government property lost, damaged, destroyed, or for which the contractor is otherwise unable to account.

C-201 Assumption of Responsibility. A contractor shall be responsible for all Government property in his possession or control in accordance with the terms of the contract, including property provided under such contract which may be in the possession or control of a subcontractor. Sources from which Government property may be furnished or acquired are as follows:

(a) *Military Installation or Other Contractor's Plants.* Government property may be shipped to a contractor from military installations, other Government installations, or plants of Military Departments or other Government Agency contractors. For the purpose of this Appendix, the contractor shall become responsible for such property upon delivery of the property into his custody or control. The shipping activity shall furnish the contractor with copies of documents necessary to permit the contractor's property records to accurately reflect the transaction.

(b) *Direct Purchase by the Contractor.* Direct purchases shall be subject to a determination by the administrative contracting officer (ACO) that the items are allocable to the contract involved and are reasonably necessary. In the case of purchase authorization of IPE, such authorization shall include a citation of a DIPEC certificate of nonavailability number including a date by which the IPE must be purchased by the contractor. In addition to acquiring technical (maintenance) data for new facilities, a description of the features of numerically controlled facilities on DD Form 1342, Section VI (page 2), shall also be acquired (see B-306.1, C-306.1, and F-200.1342). Acquisition of new numerically controlled facilities shall include the requirement for the builder to complete Section VI of DD Form 1342 in triplicate, affix one copy to inside of numerical control cabinet door in a manner to preclude removal or destruction, place two copies in an envelope, and tape to door near the first copy. For purposes of property control within the scope of this Appendix, it shall be considered that property purchased by the contractor for which reimbursement is to be requested, becomes Government property upon its receipt by the contractor. This provision shall not be deemed to alter or modify contractual provisions relating to passage of title.

(c) *Withdrawal From Contractor-Owned Stores.* For purposes of property control, within the scope of this Appendix, property withdrawn from contractor-owned stores, for direct charge to the contract, shall be considered Government property at the time of approval of the claim for reimbursement, or at the time of issuance for use of such property for the performance of the contract, whichever is earlier.

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(d) *Contract Provisions, Terminations, Contract Changes.* Pursuant to specific contractual provisions or as a result of termination of a contract, or change orders issued under a contract, the Government may acquire title to property. For purposes of property control, such property shall, unless otherwise provided by the contract, be considered Government property upon acceptance of title by the Government.

(c) *Advance, Progress, or Partial Payments.* Pursuant to the terms of a contract, the Government may acquire a lien or title to property upon the making of advance, progress, or partial payments to the contractor. Property to which the Government has acquired a lien or title solely as a result of advance, progress, or partial payments shall not be subject to the provisions of this Appendix.

C-201.1 *Evidence of Receipt of Government Property.* The contractor shall furnish written receipts for all, or specific classes of Government-provided property only in those instances where such action is determined by the property administrator to be essential for maintenance of minimum acceptable property controls. Where such evidence of receipt is required for contractor-acquired property, it shall be provided by the contractor not later than the time he submits his application for payment (public voucher) for the property. In the instance of Government-furnished property, the required receipt shall be provided by the contractor immediately upon receipt of the property.

C-201.2 *Discrepancies Incident to Shipment.*

(a) *Government-Furnished Property.* When overages, shortages, or damages are discovered upon receipt of Government-furnished property, the contractor shall provide a statement of the condition and the apparent causes in accordance with procedures approved by the property administrator pursuant to C-201. When the quantity or description of property received by a contractor differs from the quantity or description denoted as shipped on the shipping document, only that quantity, or property, actually received will be recorded on the official records of the contractor.

(b) *Contractor-Acquired Property.* The contractor shall take all actions necessary in adjustment of shortages, overages, or damages in shipment of contractor-acquired property from a vendor or supplier except in those instances wherein the shipment has moved via Government bill of lading and carrier liability is indicated. In the latter event, the contractor shall report the instance in accordance with (a) above.

C-202 *Relief From Responsibility.* Subject to specific instructions of the contracting officer, and unless otherwise provided for in the contract, the contractor shall be relieved of his property control responsibility for Government property by the following:

(a) *Consumption of Property in the Performance of the Contract.*—To the extent that the property administrator shall determine that property has been consumed or expended for proper purposes and in reasonable amounts in the performance of the contract;

(b) *Retention by the Contractor.*—When the contractor retains, with the approval of the contracting officer, Government property for which the Government has received consideration;

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(c) *Sale of Property.*—For Government property sold pursuant to instructions of the plant clearance officer; provided that, the proceeds of such sale shall have been received by or credited to the Government;

(d) *Shipment of Government Property From a Contractor's Plant.*—When Government property is shipped from the contractor's plant (except when shipment is to a subcontractor or other location of the contractor) pursuant to the instructions of the plant clearance officer or the property administrator;

(e) *Determination by the Contracting Officer.*—For Government property which is lost, damaged, destroyed, or consumed in excess of that normally anticipated in a manufacturing or processing operation, and for which the contracting officer has determined the extent of liability, if any, of the contractor; provided that:

(i) such determination is furnished to the contractor in writing;

(ii) the Government has been reimbursed where required by the determination; and

(iii) proper disposition of property rendered unserviceable by damage has been accomplished, and appropriate cross-reference is recorded on the determination as to the shipping documents or other documents evidencing disposal.

(f) *Transfer of Title.*—The contractor shall be relieved of responsibility for Government property when title to the property has been transferred to the contractor in accordance with 4-116.4(c). (P.L. 85-934)

C-203 *Contractor's Liability.*

(a) Subject to the terms of the contract, the contractor may be liable when shortages of Government property are disclosed or when Government property is lost, damaged, or destroyed, or when there is evidence of unreasonable use or consumption of Government property as measured by the allowance provided for by the terms of the contract, the bill of materials, or other appropriate criteria.

(b) The contractor shall report all cases of loss, damage, or destruction of Government property in his possession or control to the property administrator as soon as such facts become known or when requested by the property administrator. The report shall contain all factual data as to the circumstances surrounding such loss, damage, or destruction. A similar report shall be furnished when completed products or end items are lost, damaged, or destroyed while such property is in the possession or control of the contractor.

(c) The contractor shall require any of his subcontractors having Government property in their possession or control which is accountable under the contract to report to him all instances of loss, damage, or destruction of such Government property. Further procedures shall be in accordance with that prescribed in (a) and (b) above.

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government real property which increase the value, life, utility, capability and/or serviceability, shall be capitalized.

(d) Costs incurred in the following circumstances shall not be capitalized in the government real property records or financial accounts:

(i) A facility is specifically constructed for test purposes which include destruction of the facility.

(ii) The building is designed to be portable.

(e) Costs incurred for maintenance, repair and/or rearrangement of Government real property which maintain the property in good physical condition, utility, capacity, and/or serviceability, shall be charged to expense, and the real property records shall not be affected. See (c) above for costs which shall be capitalized.

(f) When government-owned real property is sold, transferred, donated, destroyed by fire or other cause, abandoned-in-place or condemned, the financial accounts shall be reduced by the presently recorded cost and the real property records annotated with a supporting statement including pertinent facts.

C-308 Records of Scrap and Salvage. In the event procedures for the control of scrap and salvage are required (see C-101(c)) and except as provided in C-103(b), the contractor shall maintain records of all scrap and salvage generated.

C-308.1 Records of Scrap. The contractor's property control system shall be such as to provide the following minimum information:

- (i) contract number, if practicable, or equivalent code designation;
- (ii) scrap classification (material content);
- (iii) quantity on hand;
- (iv) unit of measure;
- (v) posting reference and date of transaction; and
- (vi) disposition.

C-308.2 Records of Salvage. The contractor's property control system shall be such as to provide the following minimum information:

- (i) contract number, if practicable, or equivalent code designation;
- (ii) nomenclature or description of item;
- (iii) quantity on hand;
- (iv) posting reference and date of transaction; and
- (v) disposition.

C-309 Records of Related Data and Information. The contractor shall maintain property control and accountability in accordance with sound business practice with respect to manufacturing or assembly drawings, installations, operation, repair, or maintenance instructions, or other similar data and information furnished to the contractor by the Government. The requirements of this Appendix are not otherwise applicable to such property.

C-310 Records of End Items. The contractor shall maintain a record of all completed products produced under the contract as follows:

(a) When there is no lapse of time between Government inspection and acceptance of the completed products and shipment from the plant site, the records shall, as a minimum, consist of a summarization of quantities accepted or shipped. When end items are accepted by the Government and stored with the contractor awaiting shipment, the record shall identify quantities stored, location, and disposition action.

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C-306.1 Centrally Reportable Industrial Plant Equipment.

(a) The contractor shall prepare a DD Form 1342 (Appendix F, F-200.1342) for each item of equipment identified as Industrial Plant Equipment (IPE), including items which, though part of a manufacturing system, would otherwise qualify as industrial plant equipment. Section VI (page 2) of the DD Form 1342 will be prepared for each item of IPE with numerically controlled features. General purpose components of special test equipment, which would otherwise qualify as IPE, should not be reported until there is no longer a requirement for the test equipment. The DD Form 1342, including Section VI, as appropriate, will be prepared in accordance with instructions contained in AR 700-43/NAV-SUP PUB 5009/AFM 78-9/DLAM 4215.1, Management of Defense-Owned Industrial Plant Equipment (IPE), at the time (1) of receipt and acceptance of accountability by the contractor; (2) major changes as specified by DLAM 4215.1 occur in the data initially submitted to DIPEC; (3) IPE is no longer required for the purpose authorized or provided; or (4) disposal is completed. The DD Form 1342 prepared at the time IPE is no longer required for the purpose authorized or provided shall reflect all changes in data not previously reported to the Defense Industrial Plant Equipment Center (DIPEC). The contractor shall retain the original of each DD Form 1342 which may be used as the official property record. Copies of the DD Form 1342, including Section VI, as appropriate, shall be forwarded directly to DIPEC through the property administrator. Each DD Form 1342 will be prepared and forwarded within 15 working days after the event which created the need for its preparation and forwarding. AR 700-43 / NAVSUP PUB 5009 / AFM 78-9 / DLAM 4215.1 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(b) IPE is identified by noun name in Joint DoD IPE Handbooks as listed in 13-312. Additional handbooks and page changes to existing handbooks, with asterisks denoting additions to the IPE scope, shall be published as required. Reporting of newly listed items which are in the possession of the contractor shall be accomplished within 180 days following the date of the new handbook or the page change.

C-307 Records of Real Property.

(a) In the case of real property furnished by the Government under fixed price contracts, and in the case of real property furnished by the Government and acquired by the contractor, title to which vests in the Government, under cost type contracts the contractor shall maintain a continuous itemized record of the description, location, acquisition cost, and disposition of all government real property including unimproved real property, all alterations and all construction work, and sites connected with such alteration and construction, acquired by purchase, lease or otherwise. The foregoing records will: (i) be complete, (ii) show the original cost of the property and improvements and the cost of changes and additions thereto, and (iii) be appropriately indexed.

(b) Costs incurred by the contractor or the Government for new construction, including erection, installation or assembly, of government real property in possession of the contractor, shall be capitalized in the real property records and financial accounts maintained by the contractor for the Government.

(c) Costs incurred for additions, expansions, extensions, conversions, alterations, and improvements including applicable portions of capital maintenance to

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DEPARTMENT OF DEFENSE FORMS

F-200.1195 DD Form 1195: Contractor's Request for Progress Payment

CONTRACTOR'S REQUEST FOR PROGRESS PAYMENT		Form Approved OMB No. 27-R0170
TO BE COMPLETED IN ACCORDANCE WITH INSTRUCTIONS ON REVERSE.		
SECTION I - IDENTIFICATION INFORMATION		
1 TO: (Include ZIP Code) ACO:		2 FROM: (Contractor's Name, Address, ZIP Code)
PAYING OFFICE		3 SMALL BUSINESS PER ASPR 1-1701 <input type="checkbox"/> YES <input type="checkbox"/> NO
		4 CONTRACT NO.
		5 CONTRACT PRICE \$
6 RATES	7. DATE OF INITIAL AWARD	8.
a. PROG. PAYTS	YR MO	a. PROGRESS PAYMENT REQUEST NO.
b. LIQUIDATION		b. DATE OF THIS REQUEST
SECTION II - STATEMENT OF COSTS UNDER THIS CONTRACT THROUGH (Date)		
9. PAID COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE		\$
10. INCURRED COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE		
11 TOTAL COSTS ELIGIBLE FOR PROGRESS PAYMENTS (Item 9 plus 10)		
12 a. TOTAL COSTS INCURRED TO DATE		\$
b. ESTIMATED ADDITIONAL COST TO COMPLETE		
13. ITEM 11 MULTIPLIED BY ITEM 6a		
14. a. PROGRESS PAYMENTS PAID TO SUBCONTRACTORS		
b. LIQUIDATED PROGRESS PAYMENTS TO SUBCONTRACTORS		
c. UNLIQUIDATED PROGRESS PAYMENTS TO SUBCONTRACTORS (Item 14a less 14b)		
d. SUBCONTRACT PROGRESS BILLINGS APPROVED FOR CURRENT PAYMENT		
e. ELIGIBLE SUBCONTRACTOR PROGRESS PAYMENTS (Item 14c plus 14d)		
15. TOTAL DOLLAR AMOUNT (Item 13 plus 14e)		
16. ITEM 5 MULTIPLIED BY ITEM 6b		
17. LESSER OF ITEM 15 OR ITEM 16		
18 TOTAL AMOUNT OF PREVIOUS PROGRESS PAYMENTS REQUESTED		
19 MAXIMUM BALANCE ELIGIBLE FOR PROGRESS PAYMENTS (Item 17 less 18)		
SECTION III - COMPUTATION OF LIMITS FOR OUTSTANDING PROGRESS PAYMENTS		
20. COMPUTATION OF PROGRESS PAYMENT CLAUSE a(3)(i) LIMITATION:		\$
a. COSTS INCLUDED IN ITEM 11, APPLICABLE TO ITEMS DELIVERED, INVOICED, AND ACCEPTED TO THE DATE IN HEADING OF SECTION II.		
b. COSTS ELIGIBLE FOR PROGRESS PAYMENTS, APPLICABLE TO UNDELIVERED ITEMS AND TO DELIVERED ITEMS NOT INVOICED AND ACCEPTED (Item 11 less 20a)		
c. ITEM 20b MULTIPLIED BY ITEM 6a.		\$
d. UNLIQUIDATED PROGRESS PAYMENT TO SUBCONTRACTORS (Item 14c)		
e. LIMITATION a(3)(i) (Item 20c plus 20d)		
21. COMPUTATION OF PROGRESS PAYMENT CLAUSE a(3)(ii) LIMITATION:		
a. CONTRACT PRICE OF ITEMS DELIVERED, ACCEPTED AND INVOICED TO DATE IN HEADING OF SECTION II.		
b. CONTRACT PRICE OF ITEMS NOT DELIVERED, ACCEPTED AND INVOICED (Item 5 less 21a)		
c. ITEM 21b MULTIPLIED BY ITEM 6b		
d. UNLIQUIDATED ADVANCE PAYMENTS PLUS ACCRUED INTEREST		
e. LIMITATION a(3)(ii) (Item 21c less 21d)		
22 MAXIMUM UNLIQUIDATED PROGRESS PAYMENTS (Lesser of Item 20e or 21e)		
23. TOTAL AMOUNT APPLIED AND TO BE APPLIED TO REDUCE PROGRESS PAYMENT		
24. UNLIQUIDATED PROGRESS PAYMENTS (Item 18 less 23)		
25. MAXIMUM PERMISSIBLE PROGRESS PAYMENTS (Item 22 less 24)		
26. AMOUNT OF CURRENT INVOICE FOR PROGRESS PAYMENT (Lesser of Item 25 or 19)		
27. AMOUNT APPROVED BY ACO		
CERTIFICATION		
<p>I certify that the above statement (with attachments) has been prepared from the books and records of the above-named contractor in accordance with the contract and the instructions hereon, and to the best of my knowledge and belief, that it is correct, that all the costs of contract performance (except as herewith reported in writing) have been paid to the extent shown herein, or where not shown as paid have been paid or will be paid currently, by the contractor, when due, in the ordinary course of business, that the work reflected above has been performed, that the quantities and amounts involved are consistent with the requirements of the contract. That there are no encumbrances (except as reported in writing herewith, or on previous progress payment request No. _____) against the property acquired or produced for and allocated or properly chargeable to the contract which would affect or impair the Government's title, that there has been no materially adverse change in the financial condition of the contractor since the submission of the most recent written information dated _____, by the contractor to the Government in connection with the contract, that to the extent of any contract provision limiting progress payments pending first approval, such provision has been complied with, and that after the making of the requested progress payment the unliquidated progress payments will not exceed the maximum unliquidated progress payments permitted by the contract.</p>		
NAME AND TITLE OF CONTRACTOR REPRESENTATIVE SIGNING THIS FORM		SIGNATURE
NAME AND TITLE OF ADMIN CONT OFFICER		SIGNATURE

DD FORM 1195
1 APR 72

PREVIOUS EDITIONS ARE OBSOLETE.

F-200.1195

ARMED SERVICES PROCUREMENT REGULATION

F210

DAC #76-30

30 SEPTEMBER 1981

DEPARTMENT OF DEFENSE FORMS

F-200.1195 DD Form 1195: Contractor's Request for Progress Payment—Continued

SECTION IV - STATUS OF PROGRESS PAYMENTS (To be completed by paying office.)	
28. REPORTING OFFICE SYMBOL	9. REPORT NUMBER
29. PROGRESS PAYMENTS MADE THIS QUARTER	
30. PROGRESS PAYMENTS MADE CUMULATIVE FROM DATE OF INITIAL AWARD	
31. UNLIQUIDATED PROGRESS PAYMENTS AT END OF QUARTER	
32. CUMULATIVE DISBURSEMENTS	
33. CONTRACTOR CODE NUMBER	
NAME AND TITLE OF PAYING OFFICER	SIGNATURE

GENERAL: (1) All entries on this form must be typewritten - all dollar amounts must be shown in whole dollars, rounded up to the next whole dollar. (2) If a progress payment is not requested during any calendar quarter and there are unliquidated progress payments on the contract, a DD Form 1195, showing the most current data on all line items shall be submitted not later than the last working day of any such quarter. This information is required for DOD statistical purposes. (3) All DD Form 1195 line item numbers not included in the instructions below are self-explanatory.

SECTION I - IDENTIFICATION INFORMATION - Complete items 1 through 8c in accordance with the following instructions:

Item 1 - TO - Enter the name and address of the cognizant Contract Administration Office - PAYING OFFICE. Enter the designation of the paying office, as indicated in the contract.

Item 2 - FROM - CONTRACTOR'S NAME AND ADDRESS/ZIP CODE - Enter the name and mailing address of the contractor. If applicable, the division of the company performing the contract should be entered immediately following the contractor's name.

Item 3 - Enter an "X" in the appropriate block to indicate whether or not the contractor is a small business concern.

Item 4 - CONTRACT NUMBER - Enter in the first 13 blocks all 13 digits of contract number structured under the Procurement Instrument Identification Number (PIIN) system. If this request applies to a call or order, include the 4-digit call/order number in addition to the contract number. For pre-PIIN system contract numbers, enter starting with the first block, the complete number as indicated in the contract and, if applicable, the call/order number shown on the instrument. In all instances, blocks 7 and 8 of the contract number will indicate the 2-digit fiscal year of award.

Item 5 - ENTER THE TOTAL CONTRACT PRICE, AS AMENDED. If the contract provides for escalation or price redetermination, enter the initial price until changed and not the ceiling price, if the contract is of the incentive type, enter the target or billing price, as amended until final pricing. For later contracts, enter the maximum expenditure authorized by the contract, as amended.

Item 6a - PROGRESS PAYMENT RATES - Enter the 2-digit progress payment percentage rate shown in paragraph (a)(1) of the progress payment clause.

Item 6b - LIQUIDATION RATE - Enter the progress payment liquidation rate shown in paragraph (b) of the progress payment clause, using three digits - Examples: show 80% as 800 - show 72 3/4% as 723.

Item 7 - DATE OF INITIAL AWARD - Enter the last two digits of the calendar year. Use two digits to indicate the month. Examples: show January as 01.

Item 8a - PROGRESS PAYMENT REQUEST NO. - Enter the number assigned to this request. All requests under a single contract must be numbered consecutively, beginning with 1. Each subsequent request under the same contract must continue in sequence, using the same series of numbers without omission.

Item 8b - Enter the date of this DD Form 1195.

SECTION II - GENERAL INSTRUCTIONS - DATE - In the space provided in the heading enter the date through which costs have been accumulated from inception for inclusion in this request. This date is applicable to item entries in Sections II and III.

Cost Basis - For all contracts with Small Business concerns and contracts awarded prior to 1 January 1972, the basis for progress payments is total costs incurred. For contracts with concerns other than Small Business the progress payment basis will be the total recorded paid costs, together with the incurred costs per progress payment clause ASPR 5-510 (a). Computation of Amounts. Total costs include all expenses paid and incurred, including applicable manufacturing and production expense, general and administrative expense for performance of contract, which are reasonable, allocable to the contract, consistent with sound and generally accepted accounting principles and practices, and which are not otherwise excluded by the contract.

Manufacturing and Production Expenses, General and Administrative Expense - In connection with the first progress payment request on a contract, attach an explanation of the method, basis and period used in determining the amount of each of these two types of expense. If the method, basis or periods used for computing these expenses differ in subsequent requests for progress payments under this contract, attach an explanation of such changes to the progress payment request involved.

Incurred Costs Involving Subcontractors for Contracts with Small Business Concerns and Contracts Awarded before 1 January 1972 - If the incurred costs eligible for progress payments under the contract include costs shown in invoices of subcontractors, suppliers and others, that portion of the costs computed on such invoices can only include costs for: (1) completed work to which the prime contractor has acquired title; (2) materials delivered to which the prime contractor has acquired title; (3) services rendered; and (4) costs billed under cost reimbursement or time and material subcontracts for work to which the prime contractor has acquired title.

SECTION III - SPECIFIC INSTRUCTIONS

Item 9 - PAID COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE - Line 9 will not be used for Small Business Contracts nor for other contracts awarded before 1 January 1972.

For large business contracts awarded after 1 January 1972, costs to be shown in Item 9 shall include only those recorded costs which have resulted at time of request in payment made by cash, check, or other form of actual payment for items or services purchased directly for the contract. This includes items delivered, accepted and paid for, resulting in liquidation of subcontractor progress payments.

* Contracts solicited by IFB, RFP or RFQ before 1 January 1972 but awarded after that date shall, for progress payment purposes, be considered to be awarded prior to 1 January 1972.

INSTRUCTIONS

Costs to be shown in Item 9 are not to include advance payments, down-payments, or deposits, all of which are not eligible for reimbursement, or progress payments made to subcontractors, suppliers or others, which are to be included in Item 1a. See "Cost Basis" above.

Item 10 - INCURRED COSTS ELIGIBLE UNDER PROGRESS PAYMENT CLAUSE - For all Small Business Contracts and for all other contracts awarded before 1 January 1972, Item 10 will show total costs incurred for the contract.

Costs to be shown in Item 10 are not to include advance payments, down-payments, deposits, or progress payments made to subcontractors, suppliers or others.

For large business contracts awarded after 1 January 1972, costs to be shown in Item 10 shall include all costs incurred (see "Cost Basis" above) for: materials which have been issued from the stores inventory and placed into production process for use on the contract, for direct labor, for other direct in-house costs, and for properly allocated and allowable indirect costs as set forth under "Cost Basis" above.

Item 12a - Enter the total contract costs incurred to date, if the actual amount is not known, enter the best possible estimate. If an estimate is used, enter (E) after the amount.

Item 12b - Enter the estimated cost to complete the contract. The estimate may be the last estimate made, adjusted for costs incurred since the last estimate; however, estimates shall be made not less frequently than every six months.

Items 14a through 14c - Include only progress payments on subcontracts which conform to progress payment provisions of the prime contract.

Item 14a - Enter only progress payments actually paid.

Item 14b - Enter total progress payments recouped from subcontractor.

Item 14c - For Small Business prime contracts and for all contracts awarded before 1 January 1972, include the amount of unpaid subcontract progress payment billings which have been approved by the contractor for the current payment in the ordinary course of business. For other contracts, enter "0" amount.

SECTION III - SPECIFIC INSTRUCTIONS - This Section must be completed only if the contractor has received advance payments against this contract, or if items have been delivered, invoiced and accepted as of the date indicated in the heading of Section II above. EXCEPTION: Item 27 must be filled in by Administrative Contracting Officer.

Item 20a - Of the costs reported in Item 1, compute and enter only costs which are properly allocable to items delivered, invoiced and accepted to the applicable date. In order of preference, unless a specific basis is prescribed by the Contracting Officer, these costs are to be computed on the basis of one of the following: (a) The actual unit cost of items delivered, giving proper consideration to the deferral of the starting load costs or; (b) projected unit costs (based on experienced costs plus the estimated cost to complete the contract), where the contractor maintains cost data which will clearly establish the reliability of such estimates.

Item 20b - Enter amount from 14c.

Item 21a - Enter the total billing price, as adjusted, of items delivered, accepted and invoiced to the applicable date.

Item 23 - Enter total progress payments liquidated and those to be liquidated from billings submitted but not yet paid.

Item 25 - Self-explanatory. (NOTE: If the entry in this item is a negative amount, there has been an overpayment which requires adjustment.)

Item 26 - Self-explanatory, but if a lesser amount is requested, enter the lesser amount.

SECTION IV - SPECIFIC INSTRUCTIONS

Item 28a - Reporting Office - Enter the seven-digit alpha-numeric disbursement office symbol of the paying office as shown in one of the following references:

Army AR 37-102-1	Air Force AFM 300-4
Navy App. B, Vol. IV, Navy DSA	AR 37-102-1
Compt. Man.	
(For example: A642000; H530200; F592100; K20700)	

Item 28b - Each reporting office shall assign a consecutive four-digit number to each DD Form 1195 to be reported starting with 0001 at the beginning of each quarter. Numbers with less than four significant digits shall be preceded by zeros, e.g., the tenth report will be numbered 0010. A new series of numbers will be initiated at the beginning of each quarter.

Item 29 - Progress Payments Made This Quarter - Enter dollar amount of progress payments actually disbursed to contractor during the calendar quarter for which the report is prepared. Do not include amounts requested or approved but not yet disbursed.

Item 30 - Progress Payments Cumulative from Date of Initial Award - Enter dollar amount of progress payments actually disbursed from date of initial award through the last day of the calendar quarter being reported.

Item 31 - Unliquidated Progress Payments at End of Quarter - Enter dollar amount of unliquidated progress payments as of the last day of the calendar quarter being reported. This amount should represent cumulative progress payments disbursed less all amounts liquidated (recouped) on invoices.

Item 32 - Cumulative Disbursements - Enter dollar amount of cumulative disbursements (total payments made less refunds received) for the contract.

Item 33 - Contractor Code Number - For the company name (not the division) shown in Line 2, enter the six (6) digit contractor code as shown in DOD Procurement Coding Manual, Volume II (4105-62M). A revision of this manual is published annually. If the contractor is not listed in the manual, leave blank. Accuracy of the contractor code is essential to the validity of the data published from the DOD computer input.

F-200.1195

ARMED SERVICES PROCUREMENT REGULATION

F211

DAC #76-30 30 SEPTEMBER 1981

DEPARTMENT OF DEFENSE FORMS

F-200.1342 DD Form 1342: DOD Property Record

DOD PROPERTY RECORD		1. <input type="checkbox"/> ACTIVE <input type="checkbox"/> INITIAL <input type="checkbox"/> IDLE <input type="checkbox"/> CHANGE		2. JULIAN DATE		3. I.O./GOVERNMENT TAG NO.		Form Approved OMB No. 22-R0209	
		SECTION I - INVENTORY RECORD							
4. COMMODITY CODE		5. STOCK NUMBER		6. ACQUISITION COST		7. TYPE CODE		8. YR OF MFG	
9. POWER CODE		10. RT STATUS CODE		11. SVC CODE		12. COMMAND CODE		13. ADM OFFICE CODE	
14. NAME OF MANUFACTURER				15. MPN'S CODE		16. MANUFACTURER'S MODEL NO.		17. MANUFACTURER'S SERIAL NO.	
18. LENGTH	19. WIDTH	20. HEIGHT	21. WEIGHT	22. CERTIFICATE OF NON-AVAILABILITY NUMBER		23. REP NO.	24. ARO	25. CONTRACT NUMBER	
26. DESCRIPTION AND CAPACITY									
CONTINUED ON REVERSE SIDE <input type="checkbox"/> YES <input type="checkbox"/> NO									
SECTION II - ELECTRICAL CHARACTERISTICS									
QUANTITY	HORSEPOWER	VOLTS	PHASE	CYCLE	AC	DC	SPEED	TYPE AND FRAME NUMBER	
26. PRESENT LOCATION							28a. OIPEC CONTROL NO.		
							29. POSSESSOR CODE		
SECTION III - INSPECTION RECORD									
					YES	NO			
30. CAN ITEM BE STORED AND MAINTAINED ON SITE FOR AT LEAST 12 MONTHS?							42. MUST ITEM BE REPAIRED/REBUILT/OVERHAULED TO PERFORM ALL FUNCTIONST?		
31. HAS ITEM BEEN REBUILT/OVERHAULED? DATE IF NO, WHEN?							43. DO DC RECORDS INDICATE SATISFACTORY PERFORMANCE? IF NO, EXPLAIN UNDER REMARKS BELOW.		
32. HAS ITEM BEEN MODIFIED FROM ORIGINAL CONFIGURATION? IF NO, EXPLAIN UNDER REMARKS BELOW.							44. ARE MANUALLY OPERATED MECHANISMS IN WORKING ORDER? IF NO, DESCRIBE UNDER REMARKS BELOW.		
33. WAS ITEM INSPECTED UNDER POWER? IF NOT EXPLAIN UNDER REMARKS BELOW.							45. ARE SCALES, DIALS, AND GAUGES WORKING AND READABLE? IF NO, DESCRIBE UNDER REMARKS BELOW.		
34. ARE MAINTENANCE COSTS NORMAL? IF NOT, EXPLAIN UNDER REMARKS BELOW.							46. ARE HYDRAULIC PUMPS, VALVES, AND FITTINGS OPERATING PROPERLY? IF NO, DESCRIBE UNDER REMARKS BELOW.		
35. ARE SAFETY DEVICES ADEQUATE AND SATISFACTORY? IF NOT, EXPLAIN UNDER REMARKS BELOW.							47. ARE ELECTRONIC SYSTEMS AND CONTROLS OPERATING PROPERLY? IF NO, DESCRIBE UNDER REMARKS BELOW.		
36. ARE INSTALLATION INSTRUCTIONS AVAILABLE FOR TRANSFER?							48. HOW MANY HOURS WAS ITEM USED BY CURRENT POSSESSOR?		
37. ARE OPERATING INSTRUCTIONS AVAILABLE FOR TRANSFER?							49. EXPLAIN UNDER REMARKS LAST USE OF EQUIPMENT DESCRIBED IN ITEM 26 ABOVE.		
38. WAS ITEM LAST USED ON A FINISHING OPERATION?							50. ESTIMATED COST FOR PACKING, CRATING, HANDLING.		
39. WILL ADJUSTMENTS OR CALIBRATION CORRECT DEFICIENCIES?							51. INDICATE DATE ITEM WILL BE AVAILABLE FOR REDISTRIBUTION.		
40. IS ITEM SEVERABLE WITHOUT DAMAGE TO COMPONENTS? IF NOT, GIVE THEIR REPLACEMENT COST, \$							52. CONDITION CODE.		
41. IS ITEM IN OPERABLE CONDITION?							53. OPERATING TEST CODE.		
SECTION III - REMARKS									
64. REMARKS									
REMARKS CONTINUED ON REVERSE SIDE <input type="checkbox"/> YES <input type="checkbox"/> NO									
SECTION IV - DISPOSITION RECORD									
56. CONSIGEE (NAME AND ADDRESS, INCLUDING ZIP CODE)					58. TYPE OF DISPOSITION			59a. DATE OF DISPOSITION AND PROCEEDS IF SOLD	
					<input type="checkbox"/> DONATION <input type="checkbox"/> DESTRUCTION				
					<input type="checkbox"/> SALE <input type="checkbox"/> ABANDONMENT				
SECTION V - VALIDATION RECORD									
57. VALIDATION (TYPED NAME(S) AND SIGNATURE(S))									

DD FORM 1342
1 MAY 78EDITION OF 1 AUG 77 MAY BE USED
UNTIL EXHAUSTED

PAGE 1 OF 2 PAGES

*U.S. GOVERNMENT PRINTING OFFICE : 1981 O-341-335/T-103

F-200.1342

ARMED SERVICES PROCUREMENT REGULATION

F212

DAC #76-30

30 SEPTEMBER 1981

DEPARTMENT OF DEFENSE FORMS

F-200.1342 DD Form 1342: DOD Property Record (Page 2)

<input type="checkbox"/> ACTIVE <input type="checkbox"/> INITIAL <input type="checkbox"/> IOLE <input type="checkbox"/> CHANGE		JULIAN DATE		I. D./GOVERNMENT TAG NUMBER	
SECTION VI - NUMERICALLY CONTROLLED MACHINE DATA					
58. CONTRL MFR		59. MDOEL		60. SERIAL NO.	
61. MFG DATE					
62. CONTRL DESIGN <input type="checkbox"/> I.C. <input type="checkbox"/> CHC <input type="checkbox"/> STORED PROGRAM <input type="checkbox"/> EDIT <input type="checkbox"/> SOLID STATE <input type="checkbox"/> VACUUM TUBE <input type="checkbox"/> OTHER:					
63. TYPE NUMERICAL CONTROL SYSTEM <input type="checkbox"/> POSITIONING <input type="checkbox"/> CONTOURING <input type="checkbox"/> CONTOURING/POSITIONING			64. DIRECT NC <input type="checkbox"/> NO <input type="checkbox"/> YES (IF YES, "X" FOLLOWING ITEM(8)) <input type="checkbox"/> READER BY-PASS <input type="checkbox"/> MOT DATA <input type="checkbox"/> DEDICATED COMPUTER		65. AXES NAMED PER RS-207 FIGURE
66. EIA FORMAT DETAIL					
67. EIA FORMAT CLASSIFICATION SHORTHAND		68. ROTARY MOTIONS UNDER NC (NAME AND IDENTIFY)		69. SPECIFY AXES UNDER POSITIONING CONTROL	
70. SPECIFY AXES UNDER CONTOURING CONTROL					
71. AXES MAXIMUM TRAVEL (ENTER AXES: X, Y, Z, ETC. AND SPECIFY INCHES OR MM)					
72. POSITIONING RATE, MAX					
73. FEED RANGE ROTARY, RPM LINEAR, FT LINEAR, Z					
74. SPINDLE DATA A. NO. OF SPINDLES		B. NO OF SPDL MOTORS		C. HP/SPDL MOTOR	
D. TAPER		E. SPEED RANGE		F. NO. OF INCREMENTS	
G. TAPE CONTROL <input type="checkbox"/> YES <input type="checkbox"/> NO					
75. EIA ASSIGNED "G" FUNCTION CODES (IDENTIFY FUNCTIONS IN REMARKS THAT ARE NOT EIA ASSIGNED)					
76. EIA ASSIGNED "M" FUNCTION CODES (IDENTIFY FUNCTIONS IN REMARKS THAT ARE NOT EIA ASSIGNED)					
77. INPUT DATA A. STANOARD <input type="checkbox"/> RS-273 <input type="checkbox"/> RS-274 <input type="checkbox"/> RS-226		B. FORMAT <input type="checkbox"/> WORD ADD <input type="checkbox"/> TAB SET <input type="checkbox"/> FIXED SEQ <input type="checkbox"/> CL DATA		C. CODE <input type="checkbox"/> RS-244 <input type="checkbox"/> RS-955	
D. DIMENSIONAL INPUT <input type="checkbox"/> INCH <input type="checkbox"/> METRIC <input type="checkbox"/> BOTH					
78. TOOL CHANGE DATA A. NO. OF TURRETS		B. NO. STATIONS EA		C. AUTOMATIC CHANGER <input type="checkbox"/> YES <input type="checkbox"/> NO	
D. NO. OF TOOLS		E. SELECTION <input type="checkbox"/> SEQUENTIAL <input type="checkbox"/> RANDOM		F. MAX. TOOL OIA.	
G. TOOL LENGTH		H. MAX. TOOL WT.		I. TDOL CODING METHOD	
79. ROTARY TABLE DATA A. INDEXING <input type="checkbox"/> MANUAL <input type="checkbox"/> NC		B. NO. OF STOPS		C. POSITIONING, NC <input type="checkbox"/> YES <input type="checkbox"/> NO	
D. NO. OF POSITIONS		E. CONTOURING, NC <input type="checkbox"/> YES <input type="checkbox"/> NO		F. FEED RANGE, RPM	
80. ND. OF READERS		81. READER TYPE <input type="checkbox"/> MECH <input type="checkbox"/> PHOTO <input type="checkbox"/> OTHER:		82. READER SPEED	
83. INTERPOLATION <input type="checkbox"/> PARABOLIC <input type="checkbox"/> LINEAR <input type="checkbox"/> CIRCULAR <input type="checkbox"/> NONE		84. BUFFER STORAGE <input type="checkbox"/> YES <input type="checkbox"/> NO		85. THREADCUTTING MAX. LEAD.	
86. CUTTER DIA. COMPENSATIONS NUMBER OF MAX. AMOUNT		87. TDOL OFFSETS NO. OF TOOL OFFSETS MAX. AMOUNT		88. READOUTS <input type="checkbox"/> SEQ. NO. <input type="checkbox"/> POSITION <input type="checkbox"/> COMMAND DATA <input type="checkbox"/> OTHER:	
89. FEEDBACK DEVICE <input type="checkbox"/> ANALOG <input type="checkbox"/> NONE <input type="checkbox"/> DIGITAL		90. MIN. PROGRAM-WABLE INCREMENT		91. MOTOR DRIVE <input type="checkbox"/> STEPPING <input type="checkbox"/> DC <input type="checkbox"/> HYDRAULIC	
92. POST PROCESSOR (NAME)					
93. DEVELOPED BY (NAME)		94. COMPUTER LANGUAGE USED		95. PART PROGRAM LANGUAGE	
96. APPLICABLE COMPUTER (NAME, MODEL & MIN CORE STORAGE)					
97. REQUIRED MANUALS (TITLE AND MANUAL EDITION)					
98. REMARKS (FEATURES NOT COVERED ABOVE, FUNCTIONS NOT EIA ASSIGNED, ETC.)					

REMARKS CONTINUED ON REVERSE SIDE ☐ YES ☐ NODD FORM 1342
1 MAY 78EDITION OF 1 AUG 77 MAY BE USED
UNTIL EXHAUSTED

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F-200.1342

ARMED SERVICES PROCUREMENT REGULATION

[FR Doc. 81-31154 Filed 10-27-81; 8:45 am]

BILLING CODE 3810-01-C

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 52****[A-4-FRL 1949-6]****Approval and Promulgation of
Implementation Plans; Florida:
Relaxation of Particulate Emission
Limits for Florida Power & Light Co.'s
Sanford Plant****AGENCY:** Environmental Protection
Agency.**ACTION:** Final rule.

SUMMARY: EPA today announces its approval of specific new emission limiting standards set to allow Unit 4 of Florida Power and Light Company's (FP&L) Sanford Generating Station to burn a mixture of coal and oil. This approval extends the plantwide cap on particulate emissions to July 1, 1984, or thirty months after EPA approval, whichever is later. At this time the unit will be required to meet the emission limits as stated in 17-2.05(6), Table II E. (1)(b) 1.1. EPA previously approved the revised limits as a temporary variance, under which Unit 4 has been conducting a test burn of coal/oil mixtures (September 10, 1980, 45 FR 59577) Application of the relaxed emission standards to the source will allow increased emissions of particulate matter from 0.3 to 0.7 pounds per million BTU heat input. A plantwide cap on particulate emissions has also been adopted to prevent violations of ambient air quality standards. In addition, visible emissions will be allowed to be of 70% opacity; under certain conditions during the test burning of various solid and/or liquid fuels, an opacity of 100% will be allowed. This action will be effective December 28, 1981 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

EFFECTIVE DATE: December 28, 1981.**ADDRESSES:** The Florida submittal may be examined during normal business hours at the following locations:

Public Information Reference Unit,
Library Systems Branch,
Environmental Protection Agency, 401
M Street S.W., Washington, D.C.
20460

Library, Office of the Federal Register,
1100 L Street, N.W., Rm. 8401,
Washington, D.C. 20005

Library, Environmental Protection
Agency, Region IV, 345 Courtland
Street, N.E., Atlanta, Georgia 30365
Department of Environmental

Regulation, Twin Towers Office
Building, 2600 Blair Stone Road,
Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT:

W. W. Jones, EPA Region IV, Air
Programs Branch, 345 Courtland Street
N.E., Atlanta, Georgia 30308, 404/881-
4552 or FTS 257-4552.

SUPPLEMENTARY INFORMATION: On
September 10, 1980 (45 FR 59577), EPA
approved, as an implementation plan
revision, a variance under which the
Florida Power and Light Company was
allowed a temporary relaxation of
particulate, visible and excess emission
limitations to test burn a coal-oil
mixture in Unit 4 of its Sanford plant.
This test was part of a nation-wide
effort to burn coal where it was feasible
and thus reduce the country's
consumption of foreign oil. On August
11, 1981, Florida submitted the relaxed
limits to EPA as a regulatory provision
of the State implementation plan.

This revision, which is approved
today, will allow a limit of 5,150 pounds
of particulate per hour, averaged over 24
hours for Unit 4, with an alternative
plantwide limit of 6,850 pounds per hour,
averaged over 24 hours. These limits
will be allowed until July 1, 1984 or until
thirty months after EPA approval,
whichever is later. At this time the unit
will be required to meet the then
applicable emission limitations.

As this approval today extends
portions of the previous variance, the
reader should refer to 45 FR 59577
(September 10, 1980) for more details.

Since some of the emission limitations
are based upon simultaneous emission
rates from all three boilers at the plant,
a procedure for relating emission rates
to other, more quickly measured
operating characteristics must be used.
This procedure was developed and used
under the approved variance and will
also be used in determining compliance
with today's approved requirements.

During this continuation of the
temporary variance, FP&L will be
conducting experiments with burning of
various solid and/or liquid fuel
mixtures. These experiments will be
limited to a maximum of 90 full power
burn days. During these experiments,
100% opacity will be allowed, otherwise
the 70% opacity requirement will apply.
The submitted revision allows an
opacity of 80% during periods of excess
emissions. The State of Florida has
previously submitted another SIP
revision which dealt with excess
emission and startup/shutdown
provisions. EPA will be taking action on
the excess emissions, and startup/

shutdown emissions requirements in a
separate action.

Action

This final rulemaking simply extends
the temporary variance that was
approved on September 10, 1980 (45 FR
59577). No adverse or critical comments
were received during the proposed
approval of the initial variance and none
are anticipated for this extension,
therefore, EPA is approving this revision
without prior proposal.

The public should be advised that this
action will be effective 60 days from the
date of this Federal Register notice.
However, if notice is received within 30
days that someone wishes to submit
adverse or critical comments, this action
will be withdrawn and two subsequent
notices will be published before the
effective date. One notice will withdraw
the final action and another will begin a
new rulemaking by announcing a
proposal of the action and establishing a
comment period.

Under Section 307(b)(1) of the Clean
Air Act, judicial review of EPA's
approval of this revision is available
only by the filing of a petition for review
in the United States Court of Appeals
for the appropriate circuit on or before
December 28, 1981. Under Section
307(b)(2) of the Clean Air Act, the
requirements which are the subject of
today's notice may not be challenged
later in civil or criminal proceedings
brought by EPA to enforce these
requirements.

Pursuant to the provisions of 5 U.S.C.
605(b) I hereby certify that the present
rule will not have a significant economic
impact on a substantial number of small
entities. This action only approves state
actions. It imposes no new requirements.

Under Executive Order 12291, EPA
must judge whether a regulation is major
and therefore subject to the requirement
of a Regulatory Impact Analysis. This
regulation is not major because it
imposes no new burden on sources.

This regulation was submitted to the
Office of Management and Budget
(OMB) for review as required by
Executive Order 12291.

Incorporation by reference of the
State Implementation Plan for the State
of Florida was approved by the Director
of the Federal Register on July 1, 1981.

(Section 110 of the Clean Air Act (42 U.S.C.
7410))

Dated: October 22, 1981.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart K—Florida

In § 52.520, paragraph (c) is amended by adding paragraph (36) as follows:

§ 52.520 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.
* * *

(36) Variance granted to Florida Power and Light Company for Unit 4 of its Sanford station, submitted on August 11, 1981, by the Department of Environmental Regulation. This variance is applicable until July 1, 1984, or until thirty months after EPA approval, whichever is later, for particulate, visible, and sulfur dioxide emissions.

[FR Doc. 81-31244 Filed 10-27-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-7-FRL 1936-1]

Revision to State Implementation Plan for Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: On April 22, 1981, the Missouri Air Conservation Commission granted a variance from the Missouri process weight limitation to the St. Joe Minerals Corporation, Pea Ridge Iron Ore Company located in Washington County near Sullivan, Missouri. The variance will allow the facility to continue operating in excess of the Missouri particulate regulation while it tests, evaluates, and installs new control equipment on each of its five furnaces. The Missouri Department of Natural Resources submitted the variance to EPA as a revision to the State Implementation Plan (SIP) on May 6, 1981 with supplementary information submitted on June 22 and July 28, 1981.

The purpose of today's notice is to take final action to approve the submission as a revision to the Missouri SIP. This action will be effective December 28, 1981, unless notice is received within 30 days that someone wishes to submit adverse or critical comment.

EFFECTIVE DATE: This action is effective December 28, 1981.

ADDRESSES: Copies of the state submission are available for inspection during normal business hours at the following locations: Environmental Protection Agency, Air, Noise and Radiation Branch, 324 East 11th Street, Kansas City, Missouri 64106; Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460; Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101; and the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374-3791; FTS 758-3791.

SUPPLEMENTARY INFORMATION: On April 22, 1981, after notice and public hearing, the Missouri Air Conservation Commission (MACC) granted a variance from 10 CSR 10-3.050, Restriction of Emission of Particulate Matter From Industrial Processes, to the St. Joe Minerals Corporation for its Pea Ridge Iron Ore facility located in Washington County near Sullivan, Missouri. The variance was submitted to EPA as a revision to the Missouri SIP on May 6, 1981. Supplementary information to support this variance was submitted to EPA on June 22 and July 28, 1981.

The Pea Ridge Iron Ore Company operates an iron ore mine and pellet plant in Washington County. Particulate control equipment previously installed by the company was seriously corroded by fluorides and chlorides in the offgases. Although the company has spent a great deal of money to repair the scrubber, it still will not meet the state particulate emission limitations.

The variance will allow the source to continue operating in excess of the state particulate emission limits while it installs pilot particulate control units and evaluates them to determine the best method of control. Once a control device has been selected, control devices will be installed on each of the five furnaces. The compliance schedule contained in the variance calls for final compliance by the source with Missouri Rule 10 CSR 101-3.050 by July 1, 1985.

Allowable emissions during the variance will not be greater than the existing emissions on the baseline date (11-11-77). Thus no increment will be consumed in accordance with the Prevention of Significant Deterioration of Air Quality (PSD) regulations (40 CFR 51.24). Dispersion modeling indicates

that the National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP) will not be violated during the period of the variance.

Under the Clean Air Act, Section 110(a)(2), EPA is required to approve a revision to a SIP if it meets the requirements in that section. Among other requirements, the state must demonstrate that a revision would not cause or contribute to a violation of any ambient air quality standard. As discussed above, EPA has determined that the source, operating at the particulate emission rate allowed by the variance, would not cause or contribute to any violation of an ambient air quality standard for particulates. In addition, EPA finds that all other relevant requirements of Section 110(a)(2) have been met.

Action

EPA approves the submission as a revision to the Missouri SIP. EPA believes this action is noncontroversial and is approving the variance without prior proposal. The public should be advised that this action will be effective December 28, 1981. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Pursuant to the provision of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. The reason for this determination is that it only approves a state regulation and affects only one source.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule is not "major" because it only approves State actions and imposes no additional substantive requirements which are not currently applicable under State law. Hence it is unlikely to have an annual effect on the economy of \$100 million or more, or to have other significant adverse impacts on the national economy.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Under Section 307(b)(1) of the Clean Air Act, as amended, judicial review of this action is available only by the filing of a petition for review in the United

States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2), the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

This notice of final rulemaking is issued under the authority of section 110 of the Clean Air Act as amended.

Dated: October 21, 1981.

Anne M. Gorsuch,
Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart AA—Missouri

1. Section 52.1320 is amended by adding a new paragraph (c)(32) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified: * * *

(32) A variance from Missouri Rule 10 CSR 10-3.050 Restriction of Emission of Particulate Matter From Industrial Processes, for St. Joe Minerals Corporation, Pea Ridge Iron Ore facility, was submitted by the Missouri Department of Natural Resources on May 6, 1981 with supplementary information submitted on June 22 and July 28, 1981.

2. Section 52.1335 is amended by adding the following compliance schedule to the end of the existing list in § 52.1335(a) as follows:

§ 52.1335 Compliance Schedules.

(a) * * *

MISSOURI

Source	Location	Regulation involved	Date adopted	Effective date	Final compliance date
St. Joe Minerals Corporation, Pea Ridge Iron Ore facility.	Washington County, Missouri.	10 CSR 10-3.050.	Apr. 22, 1981.....	Dec. 28, 1981.....	July 1, 1985.

[FR Doc. 81-31240 Filed 10-27-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 55

[EN-3-FRL 1963-6]

Energy Related Authority; Delayed Compliance Order for the Department of the Navy, Naval Ordnance Station, Indian Head, Maryland, Goddard Power Plant

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency is issuing an administrative Order (Delayed Compliance Order, or "DCO") to the Department of the Navy's Naval Ordnance Station, Goddard Power Plant, which allows its Boilers Nos. 1, 2, and 3, in Indian Head, Maryland to burn coal rather than oil. The increased emissions due to coal burning will mean that during the period the DCO is in effect, the Naval Ordnance Station will not comply with applicable air pollution

requirements regarding particulate emissions under the Maryland State Implementation Plan (SIP). However, the NOSIH has successfully demonstrated that conversion of its three (3) boilers to coal prior to the installation of the particulate control equipment and the continued burning of coal in the boilers prior to upgrading the existing particulate control equipment will not cause or contribute to violations of the National Primary Ambient Air Quality Standards for particulate matter during the period the DCO will be in effect.

Not later than October 1, 1984, the Naval Ordnance Station must install the additional pollution control equipment necessary to achieve compliance with all applicable Maryland air pollution requirements and demonstrate compliance therewith. To ensure the expeditious installation of this equipment and provide protection of the primary particulate standard, a compliance schedule, interim emission limits and other requirements are included in this Order.

EFFECTIVE DATE: October 28, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Denis M. Zielinski, U.S. Environmental Protection Agency, Region III, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106 (215) 597-0804.

SUPPLEMENTARY INFORMATION: EPA is issuing an administrative Order authorized by Section 113(d)(5) of the Clean Air Act ("the Act"), 42 U.S.C. 7413(d)(5), to the Department of the Navy, regarding its Boilers Nos. 1, 2, and 3 at the Naval Ordnance Station, Goddard Power Plant in Indian Head, Maryland ("NOSIH"). The NOSIH received notice, on April 3, 1980, of a proposed Prohibition Order issued by the Economic Regulatory Administration of the Department of Energy ("DOE"), pursuant to Section 302(a) of the Power Plant and Industrial Fuel Use Act of 1978 ("FUA"), 42 U.S.C. 8342(b), as implemented by 10 CFR Part 506 (44 FR 43176). If the proposed DOE Prohibition Order is approved as a final Order, in accordance with the FUA and the regulations thereunder, it will prohibit any further burning of natural gas or petroleum products as the primary energy source for the NOSIH's Boilers 1, 2, and 3 at the Goddard Power Plant in Indian Head, Maryland.

The Order requires the NOSIH Boilers to achieve and demonstrate compliance, not later than October 1, 1984, with the Code of Maryland Air Pollution Regulations, Section 10.03.40.03B, 10.03.40.02C(2), and 10.03.40.02D. The referenced sections of the Code of Maryland Air Pollution Regulations are part of the federally approved SIP for the State of Maryland, as presently constituted. Certain proposed amendments and revisions to the Maryland SIP have been submitted by the Maryland Air Management Administration to EPA for approval as revisions to the SIP. These proposed amendments and revisions are awaiting final approval by EPA. The Order provides that any changes to the Maryland SIP which affect the emission limitations set forth in the Order shall be incorporated into the Order.

The Order requires the NOSIH to install control equipment on Boilers Nos. 1 and 2 by October 1, 1983 and on Boiler No. 3 by July 1, 1984. During this interim period the NOSIH must: (1) Burn coal with an ash content less than twelve percent (12%) and a high heating value of greater than twelve thousand (12,000) British Thermal Units per pound; (2) emit not more than two hundred fifty (250) pounds of particulate matter per hour per boiler; (3) continue to improve the performance of its existing particulate emission control equipment; and (4) refrain from simultaneously

operating Boilers Nos. 1, 2, and 3 coal. The Order also requires monitoring and reporting of air quality and air pollutant emissions data. Compliance with the terms of the Order will preclude any further enforcement action against NOSIH by EPA under Section 113 of the Act and any citizens' suits under Section 304 of the Act for violations of the Maryland SIP provisions for Boilers Nos. 1, 2, and 3, addressed in the Order, for the period the Order is in effect, so long as the NOSIH is in compliance with the terms and provisions of the Order.

The Order was proposed in the *Federal Register* on July 30, 1981 (46 FR 38939). In this notice EPA invited the public to submit written comments and requests for a public hearing as to whether EPA should issue the Order. During the 30-day public comment period ending August 30, 1981, no comments were received by EPA.

One major change that the Clean Air Act Amendments of 1977 have had on implementation of the Power Plant and Industrial Fuel Use Act is that written concurrence of the Governor of the appropriate State must be obtained on any date EPA proposes to certify to the Department of Energy as the earliest date a prohibited source can convert to coal in compliance with applicable air pollution requirements. This concurrence was requested of the Honorable Harry Hughes, Governor of the State of Maryland, and was received on August 24, 1981.

Therefore, based upon the request by the Department of the Navy, EPA's findings, and the written concurrence from Governor Harry Hughes, this Order is hereby issued. 40 CFR Part 55 will be amended based upon the actual terms of Order No. R-III-CC-007 by adding a new Subpart V. Maryland, 55.450. In addition, this Order is being made effective immediately since no purpose would be served by delaying its effective date.

(42 U.S.C. 7413(d))

Dated: October 22, 1981.

Anne M. Gorsuch,
Administrator.

PART 55—ENERGY RELATED AUTHORITY

Part 55 of Chapter I, Title 40 of the Code of Federal Regulations is amended by adding a New Supart V as follows:

Subpart V—Maryland

§ 55.450 Delayed compliance order.

The Administrator hereby issues a Delayed Compliance Order (DCO) to the Department of the Navy's Naval Ordnance Station, Indian Head,

Maryland (NOSIH), Goddard Power Plant, Boilers Numbered 1, 2, and 3 (the source), upon the following conditions:

(a) Primary Standard Conditions:

(1) During the period this Order is in effect, the source shall not burn coal which results in the emission of particulate matter in excess of 250 pounds of particulate matter per hour per boiler.

(2) During the period this Order is in effect, the source shall burn only coal with an ash content less than 12 percent and a high heating value of greater than 12,000 British Thermal Units per pound.

(3) During the period this Order is in effect, the source shall not simultaneously operate Boilers Nos. 1, 2, and 3 at any time.

(4) Within 30 days of receipt of this Order, the NOSIH shall submit a proposal for a complete air quality monitoring network to be set up by the NOSIH in the vicinity of the source as required by subparagraph VI.A.1. of the DCO.

(5) Within 90 days after receiving EPA approval of the proposed network, the NOSIH shall complete installation and begin operation of the air quality monitoring network.

(6) Within 90 days of receipt of this Order, the NOSIH shall submit for EPA approval the methods, procedures and devices the NOSIH intends to use to obtain the information required by subparagraph VI.B. of the DCO.

(b) Plan for Compliance with the Code of Maryland Air Pollution Regulations ("COMAR"). The source shall comply with COMAR 10.03.04.03B, 10.03.40.02D and 10.03.40.02C(2) in accordance with the following increments of compliance. In the event of a modification by the State of Maryland to any of the COMAR emission limitations set forth above, which is approved by EPA as a revision to the Maryland State Implementation Plan (SIP), compliance with the COMAR as modified in accordance with such revision to the SIP is required.

(1) March 1, 1982—Submit a plan for approval of the particulate emission control systems.

(2) July 1, 1982—Enter into contracts for the particulate emission control systems.

(3) October 1, 1982—Initiate on-site construction or installation of the particulate emission control systems.

(4) October 1, 1983—Complete on-site construction or installation of the particulate emission control systems for Boilers Nos. 1 and 2.

(5) January 1, 1984—Perform an emission test in accordance with 40 CFR Part 60, and visible emission observations in accordance with EPA Method 9 (40 CFR Part 60, Appendix A),

and submit the reports demonstrating final compliance with the above emission limitations for Boilers Nos. 1 and 2.

(6) July 1, 1984—Complete on-site construction or installation of the particulate emission control system for Boiler No. 3.

(7) October 1, 1984—Perform emission test in accordance with 40 CFR Part 60, and visible emission observations in accordance with EPA Method 9 (40 CFR Part 60, Appendix A), and submit the reports demonstrating final compliance with the above emission limitations for Boiler No. 3.

(c) Interim Requirements: The source shall comply with the following interim requirements prior to achieving compliance with COMAR 10.03.04.03B, 10.03.40.02D and 10.03.40.02C(2).

(1) Within 60 days of commencing the use of coal in Boilers Nos. 1, 2, and 3, the NOSIH shall perform source tests for particulate emissions using EPA Method 5 as specified in Appendix A of Part 60, Title 40 of the Code of Federal Regulations, as amended. Furthermore, no later than March 1, 1983 the NOSIH shall perform additional particulate emission tests on Boiler No. 3. The NOSIH shall perform such tests in a manner prescribed by EPA Region III and shall provide EPA Region III a minimum of 15 days written notice prior to conducting such tests. The NOSIH shall provide a complete report containing all information pertinent to the performance and results of the stack tests within 45 days of completing such tests.

(2) Within 30 days of the effective date of this Order, the NOSIH shall install continuous opacity monitors in the stacks of Boilers Nos. 1, 2, and 3.

(3) Within 90 days of the effective date of this Order, the NOSIH shall conduct a Performance Specification Test (PST) in accordance with Performance Specification 1, Appendix B of Part 60, Title 40 of the Code of Federal Regulations. The NOSIH shall notify EPA Region III of the date on which the PST will be conducted at least 30 days prior to such date. Within 45 days of the PST, the NOSIH shall submit a complete report containing all information pertinent to the PST to EPA Region III.

(4) The NOSIH shall keep monthly records of both air quality monitoring data and air pollutant emissions and shall submit such records within 15 days of the end of each calendar month to EPA Region III. These records shall detail daily particulate emissions from Boilers Nos. 1, 2, and 3 and shall include for each unit:

(i) A description of the types and amounts of fuel consumed each day of the preceding month.

(ii) An analysis of the fuel received each week including sulfur content, ash content, and high heating values.

(iii) For the stacks serving Boilers Nos. 1, 2, and 3, a record of the hourly measurement of opacity acquired by means of a continuous opacity monitoring device.

(5) Within 30 days of the effective date of this Order, the NOSIH shall submit for EPA approval procedures by which the NOSIH will obtain and record data about the operating parameters of the multiclone collectors on each coal-fired boiler. Said procedures shall be implemented within 30 days after they are approved by EPA.

(6) Within 60 days of the effective date of this Order, and every six months thereafter, the NOSIH shall submit to EPA Region III a report that described the NOSIH's efforts during the reporting period to improve the performance of the multiclone collectors on Boilers Nos. 1, 2, and 3.

(7) The NOSIH shall notify EPA Region III of any exceedance of the National Primary Ambient Air Quality Standards within 72 hours of the collection of such data from its network.

(8) The NOSIH shall notify EPA Region III within 10 days after each incremental requirement has been satisfied, or within 10 days after the final date set for achieving each such requirement, if such requirement has not been achieved.

(9) The NOSIH shall also submit a copy of all correspondence and reports required under this Order to the State of Maryland's Air Management Administration.

(d) Violation of any requirement of this Order shall result in one or more of the following actions:

(1) Enforcement of such requirement pursuant to Section 113(a), (b) or (c) of the Act, 42 U.S.C. 7413 (a), (b), or (c).

(2) Revocation of this Order, after notice and opportunity for public hearing and enforcement action.

(3) Notification of noncompliance and commencement of an action pursuant to Section 120 of the Act.

(4) An appropriate combination of such actions.

(e) Nothing herein shall affect the responsibility of the NOSIH to comply with any other applicable State, local, or other Federal law or regulation.

Any terms or conditions appearing in the Order and not contained herein shall

remain in full force and effect notwithstanding.

[FR Doc. 81-31241 Filed 10-27-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 60

[LCE FRL-1921-1]

Alternate Method 1 to Reference Method 9 of Appendix A— Determination of the Opacity of Emissions From Stationary Sources Remotely by Lidar; Addition of Alternate Method

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending its regulations to establish an Alternate Method 1 to Reference Method 9 of Appendix A of 40 CFR Part 60. This alternate method employs a lidar (laser radar) for the nonsubjective determination of the opacity of visible emissions from stationary sources. It will be used during nighttime hours as it is during the day. The use of Reference Method 9 is restricted to daylight.

The effect of this rulemaking is to allow EPA, state and local agencies to use Alternate Method 1 (lidar) to enforce opacity standards in all cases where Reference Method 9 is now authorized. These cases include New Source Performance Standards codified in 40 CFR Part 60 and, pursuant to 40 CFR 52.12(c)(1), opacity standards in State Implementation Plans (SIPs) that do not specify any test procedure.

EFFECTIVE DATE: October 28, 1981.

FOR FURTHER INFORMATION CONTACT: Arthur W. Dybdahl, National Enforcement Investigations Center, U.S. Environmental Protection Agency, P.O. Box 25227, Denver, Colorado 80225, (303) 234-4658, FTS 234-4658.

SUPPLEMENTARY INFORMATION:

Introduction

Lidar, an acronym for *Light Detection and Ranging*, was first applied to meteorological monitoring in 1963. Since that time lidar has been developed as a measurement technique for plume opacity, and today is approved as an alternate to Reference Method 9 which employs visible emissions observers.

Lidar contains its own unique light source (a laser transmitter which emits a short pulse of light) which enables it to measure the opacity of stationary source emissions during both day- and nighttime ambient lighting conditions. The optical receiver within the lidar collects the laser light backscattered

(reflected) from the atmospheric aerosols before and beyond the visible plume as well as that from the aerosols (particulates) within the plume. The receiver's detector converts the backscatter optical signal into an electronic signal. Plume opacity is calculated from the backscatter signal data obtained from just before and beyond the plume.

Background

During its development, Reference Method 9 was found to be influenced by the color contrast between a smoke plume and the background against which the plume is viewed by visible emissions observers. It was also influenced by the total ambient light (luminescence contrast) present. A plume is most visible and presents the greatest apparent opacity when viewed against a contrasting background (white plume viewed against a clear blue sky). Under conditions presenting a less contrasting background, the apparent opacity of a plume is less and approaches zero as the color contrast or the ambient light level decreases toward zero. An example is viewing a white-to-gray plume against a cloudy or hazy sky.

The measurement of smoke plume opacity with the lidar is independent of the color contrast conditions that exist between a plume and the respective background (clear sky, cloudy sky, terrain, etc.), and ambient lighting conditions. Lidar does not consider plume-to-background contrast in measuring plume opacity.

On July 1, 1980, EPA proposed the lidar technique in the Federal Register (45 FR 44329) as Alternate Method 1 to Reference Method 9 of Appendix A.

Need for the Alternate Method

Persuasive considerations supporting EPA development and approval of the alternate (lidar) method include the following:

- Independence from ambient lighting conditions which allows opacity measurement during day- and nighttime hours;
- Objective measurement of a physical property (opacity) which is calibrated, and correlated with the reference method;
- Remote operation which neither interferes with nor disrupts the regulated public;
- Application of statistical techniques to assure high confidence levels in the data used for compliance determination.

Difference From Proposed Method

The approved alternate method varies from its proposed form as published in

the July 1, 1980 Federal Register. The proposal was edited for clarity and brevity. Informative material (examples) and the mathematical derivations were moved into the technical support document, Reference 5.1. The final regulation is approximately two thirds of the proposal's length.

A list of definitions relating to lidar technology was placed in the first section. The selection of pick intervals was simplified to avoid ambiguity. The equation for the standard deviation was further derived and simplified to assure a high confidence level in the data that is used. Its definition and derivation are contained in the technical support document. The opacity concept is clearly identified and the terms "actual plume opacity" and "actual average plume opacity" are defined using lidar measurements. These opacities are correlated to the reference method. A more accurate azimuth angle correction equation was put into the regulation for converting the opacity values measured along the laser beam's slanted pathway through the plume to the opacity value of the plume cross section. The running average method was eliminated so that it would not be confused with any other applicable standard.

The design performance specifications for the lidar system were generalized and converted into affirmative requirements. This enables the construction and use of lidar systems with ruby or other lasers.

All recordkeeping requirements were changed to suggestions. EPA operators will follow these suggestions closely but others who design, build, or operate a lidar system will have no recordkeeping, reporting, or other paperwork obligations. This flexibility allows construction of lidar systems by those persons wanting to use the alternate method without imposing any additional regulatory burden upon the public.

Public Comments

The public comments received on the proposed regulation were individually examined by the EPA workgroup. Each comment was resolved and appropriate changes appear in today's regulation. All of these comments were generalized into the major topics which are discussed below. These include the application of lidar technology to the regulatory process and its applicability for measuring the opacity of emissions from a specific source. Several commentators examined the available literature or recounted their own experiences when they asked to see a correlation between the proposed method and the reference method. The results of this test also satisfied many of

the theoretical and philosophical concerns. Safety concerns for the operators and the public were expressed. Comments were also received on how the system would operate, what degree of subjectivity the operators would have and the availability of equipment or operators. Legal concerns were directed to an inferred regulatory change and also to constitutional issues. The response to these comments is detailed below.

Public comments expressed a concern that the use of lidar for the remote measurement of emissions opacity from stationary sources was a premature application of experimental technology. EPA evaluated two decades of literature describing the development of lidar technology. The list of references in the technical support document demonstrates the careful agency consideration used to develop lidar into an alternate method for the remote measurement of opacity.

Several commentators indicated that the data derived from the application of the alternate method to a specific emission source might be stricter than data produced by the reference method. Plume characteristics, including particle size and particle color, were mentioned as individual variables which might affect the data generated by lidar. EPA performed extensive tests to correlate Alternate Method 1 with Reference Method 9 [see Reference 5.1]. The data reduction technique assures that lidar-determined opacity values will not show an emission source exceeding an opacity standard when the reference method would not also show that it was exceeding the standard. In some cases, Alternate Method 1 will show a source to be in compliance with opacity standards when a visual observer would report that the source was not in compliance with the standard.

Some of the comments were directed toward an apparent subjectivity in the use of lidar when there was a potential for external interference during an opacity measurement. EPA has shown that lidar may be used to measure opacity values under a wider variety of conditions than would be possible using the reference method. However, lidar-determined opacity values will not be used for enforcement purposes when intervening variables significantly interfere with an opacity determination. Examples of a heavy precipitation event or excessive ambient (wind blown) dust were given to explain potential causes of erratic data. These opacity values would be excluded from an enforcement decision by the data reduction technique which identifies and discards unsatisfactory data.

All of the other limitations noted by commentators are no more restrictive than conditions met during the visual determination of opacity. For example, the proximity of other plumes was mentioned. EPA has shown that a lidar is able to distinguish individual plumes that are not in spatial coincidence. It requires no more than 50 meters of clearance before and beyond the plume along its line-of-sight. The positioning problem is far less restrictive because the lidar system only measures the optical backscatter produced by its own unique light source. Its only position restriction is a 15° cone angle about the sun which eliminates solar signal noise in the receiver. The initial positioning of the lidar is approximately perpendicular to the direction of the plume. The lidar data reduction technique compensates for significant plume drift and, unlike the reference method, adjustments are made to determine the opacity of the actual cross section of the plume. The lidar operators verify that the measurements are taken in the same part of the plume that visual observers would use. This, for example, precludes misleading measurements taken if a certain plume were to loop tightly back upon itself.

Some commentators were concerned with the lidar's ability to determine opacity values for a source with an attached steam plume during nighttime measurements. EPA has suggested several visual aids which are available to verify the proper use of the lidar during nighttime measurements. Even without these aides, the lidar is capable of discerning the sudden change in opacities which would allow the alternate method to be used for this purpose. The system's data display allows the lidar operator to distinguish the end of an attached steam plume and consequently permits the measurement of the residual plume opacity. It is the characteristic of the nearly 100% opacity and high reflectivity of a steam plume that allows the lidar to make this measurement when the other mentioned visual aids may not provide adequate information. Other nighttime concerns expressed were the inability of a source to refute lidar determinations because the source would be unable to field a team of visual observers. EPA notes that the source is in control of the operation and has access to monitoring and production records which could be used for this purpose.

Many commentators were concerned with the possibility that the lidar-determined opacity values for an emission source would vary from opacity values determined by visual observers. As a result of these

comments, EPA conducted a collaborative test to determine if any discernable variance would be detected. The results of the test showed that the lidar-measured average opacity was 4% (full scale) greater than that obtained by the visual emissions observers for black smoke. For white smoke the lidar-measured average opacity was 8% (full scale) lower than that obtained by the observers.

EPA applied the results of the collaborative test and the fact that lidar is more sensitive to low-level visible emissions than visible emissions observers (giving rise to the definition of correlation which states that 0% opacity by Reference Method 9 is defined as being less than or equal to 5% plume opacity by lidar determination), to define actual plume opacity. This opacity value is calculated from the lidar-measured opacity as shown in Equation AM1-15 of the Alternate Method. The reasons for, and the derivation of this equation, is provided in Reference 5.1 of Alternate Method 1.

Other comments were addressed to the correlation of the lidar system with various operators or with other lidar systems. Each EPA crew of lidar operators must demonstrate their proficiency at least annually during the calibration tests. Other lidar systems must satisfy the requirements of the Performance Evaluation Tests of the Alternate Method. EPA sees no useful enforcement purpose for comparing lidar systems with each other.

Commentators suggested that lidar opacity values obtained from a small portion of a plume would fail to account for the averaging effect of a visual observer or the slower responding in-stack transmissometer, when reading a highly variable plume. This was not observed during the collaborative testing, but even if it is an inherent characteristic, the lidar-determined opacity values would average out the variation observed in time and space.

The comments directed to aspects of Reference Method 9 do not apply to the Alternate Method. Such comments included discussions of: (1) stricter technical requirements for in-stack transmissometers than those used for the Method 9 calibrating smoke generators, and (2) the relationship between visual opacity and mass emissions. The use of the alternative method does not change the basis for the reference method. Lidar is used to make the same determinations that Method 9 was approved to make. The approval of a lidar system for the remote determination of the opacity of stationary source emissions provides a consistent, reliable mechanism for

extending regulatory compliance determinations under a wider variety of conditions. This extension clearly furthers the objectives of the opacity standard by verifying that stationary sources meet opacity requirements at all times, day and night.

A frequent comment was addressed to the safe use of a lidar system in the field environment. Concerns were expressed for potential encounters with the laser beam by plant personnel, bystanders, and wildlife. The list of references includes manuals with detailed requirements used by EPA operators to prevent exposure of individuals to the laser beam. This list in addition to Section VII of Reference 5.1, is indicative of the thorough safety training that is an integral part of the EPA operator-training program. EPA operators must verify that no plant personnel are in the vicinity of the laser beam. This is accomplished visually and the procedure is repeated anytime the lidar is directed close to the lip of a stack or other source. The Federal Aviation Administration (FAA) is satisfied with EPA precautions. Flight paths near an intended source are reviewed prior to a test and the FAA is notified of the testing in a particular area. The required operator vigilance prevents an accidental exposure to the direct laser beam by the public or by wildlife. The regulation does not specify safety procedures because EPA's position is that the adoption and practice of laser safety in the field is incumbent upon any owner/operator of a lidar. Any lidar manufacturer can provide training in lidar safety (References 48 and 49 of the Technical Support Document). The purpose of this regulation is to provide a method for measuring plume opacity by lidar. Section VII of the Technical Support Document [Reference 5.1] describes adequate laser safety requirements and procedures when applied to field use.

The aiming telescope indicates where the laser beam will strike the emission source when the lidar range is determined. The operator may use a variety of visual aides to determine that no employees are working on a stack or other source that is to be tested. The lidar will not be operated when there is a reasonable, though slight, probability that people or animals will intersect the laser beam. Similarly, objects that could reflect a laser pulse intact are avoided. The diffuse reflection of a laser beam from an opaque object does not present a hazard to the public or to the lidar operators. A prior notification of intended source testing was not added to the regulation as requested by several commentators. The present safeguards

are adequate for protecting employees and a notice requirement could limit enforcement applications.

One commentator questioned the Agency's ability to enforce the restriction on operator use of dulling drugs or medications prior to or during lidar operations. EPA based these restrictions upon safety regulations specified for the operator of sophisticated or powerful equipment that presents a potential risk to the public, such as an aircraft pilot. It is the individual responsibility of lidar operators to avoid the use of any substance which will impair their senses or their ability to operate the lidar safely. Abuse of this restriction may be detected by other operators or by an operator's inability to perform satisfactorily. EPA clearly emphasizes the individual's responsibility in laser safety during the training program.

Several commentators noted that the running average method for the lidar determination of average opacity values contradicted the Method 9 calculation. EPA deleted the running average requirement from the alternate method, and replaced it with the calculation for the average of actual opacity.

Comments regarding the discarding of opacity values indicate the need for an explanation of quality control and the linkage of the alternate method with the variations of the reference method. The reference or ambient air signals required during a test maintain the accuracy and precision of the alternate method. Only measurements that provide high quality data are used for compliance determination. The acceptance/rejection criterion assures the objectivity of the alternate method and further reinforces the accuracy of the results. The requirement that the associated standard deviation, S_0 , for a lidar-determined opacity value be less than or equal to 8% (full scale), accounts for the variations that are inherent to Method 9 observations.

Several commentators suggested that quality assurance procedures are a vital aspect of any system. The Agency agrees with this observation and continued the requirements for lidar performance verification. This includes annual calibration of a lidar system, routine equipment calibrations, reference measurements (ambient air shots), and an acceptance/rejection criterion. Additionally, collaborative tests were conducted to verify the correlation between opacity values determined by lidar and those determined by certified visual emissions observers. The test results were

incorporated into the data reduction technique to provide high quality data.

Other commentators mentioned apparent subjectivity of the lidar operator in determining plume opacity values. The alternate method requirements virtually eliminate subjectivity. The individual characteristics of each source will control positioning and use of the lidar system. These judgments are no more subjective than those required by the reference method. The alternate method produces more objective data because lidar is less restricted, and is able to compensate or correct for plume drift. The operator is able to visually verify that the lidar measurements are free from interference.

Commentators correctly perceived that training is required to produce lidar operators. Some commentators felt that EPA should institute a certification program for lidar operators. EPA decided not to make a lidar operator certification program a part of this alternate method because proper and adequate training in lidar operations is the responsibility of the lidar owner/operator and is readily provided by any number of lidar manufacturers.

EPA expects that the performance verification of the lidar will be performed by the personnel who will be operating the system in the field using this method. If a lidar is not properly operated, it will not fulfill the performance verification requirements of this method.

EPA's experience with the training, certification and use of non-specialized trainees has been successful. Usually lidar manufacturers will offer training for prospective lidar operators.

Comments were made concerning the availability of lidars and lidar equipment. Several contractors located throughout the country offer the manufacture or lease of lidar systems.

Other comments were directed toward the availability of lidar data. EPA policy encourages the dissemination of information to the public. Lidar-generated data will be available to the same extent that data obtained by EPA visible emission observers is available.

After review of one commentator's observation of the improper application of a mathematical formula, the appropriate corrections were made in the alternate method. Derivations for the formulas in the alternate method are contained in the Technical Support Document [Reference 5.1].

Another commentator speculated upon undefined problems and unobserved interferences. EPA will deal

with speculative problems when they are encountered.

One commentator contended that the use of a lidar system was unconstitutional, but failed to provide any reasoning or legal authorities to support this argument. In any event, it is without merit.

Stack plumes are visible from "plain fields" and the Constitution does not bar air pollution enforcement officials from enforcing standards by observing and measuring the opacity of such plumes. *Air Pollution Variance Board of Colorado v. Western Alfalfa Corp.*, 416 U.S. 861 (1974). An owner or operator of such a stack does not have a reasonable expectation that the opacity of such plumes will not be observed and measured. Therefore, such observation and measurement does not constitute a "search" under the Fourth Amendment. See, *Katz v. United States*, 389 U.S. 347 (1967). Such observation and measurement does not become a "search" simply because it is performed by a mechanism such as lidar, that makes the measurement more reliable, and allows measurement at night. *United States v. Lee*, 274 U.S. 559, 563 (1927); *State v. Stachler*, 570 P. 2d 1323 (Haw. S. Ct. 1977); *Burkholder v. Superior Court*, 158 Cal. Rptr. 86 (Ct. App. 1979).

The commentator also objected that EPA lacks statutory authority to authorize the enforcement of opacity limits by lidar. He argued that EPA is not authorized to use "remote, surreptitious, non-entry" means of enforcement. This argument is without merit.

Section 114 of the Clean Air Act is a broad grant of authority to sample emissions. It provides that, for the purposes of carrying out virtually all provisions of the Act, including enforcement of state implementation plans and new source performance standards, "the Administrator may require any person who owns or operates any emission source" to "install, use, and maintain such monitoring equipment or methods," and "sample such emissions (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator may prescribe) * * * as he may reasonably require" and that the Administrator may "sample any [such] emissions," Section 114(a)(1), (2)(B). Because lidar is a reliable means of sampling the opacity of emissions and of monitoring the performance of pollution control techniques, the Administrator may reasonably allow its use.

There is nothing in the language or legislative history of Section 114 to

suggest that if a sampling or monitoring technique can be used from outside the boundaries of a polluting plant without the owner's knowledge, it may therefore not be used as an enforcement technique. Indeed, EPA has required the use of Method 9 to monitor and sample emissions since 1971, 36 FR 24876, 34895 (Dec. 23, 1971), and Method 9 can be and is used from outside plant boundaries without owners' knowledge. The use of Method 9 has been upheld as a reasonable enforcement technique. *Portland Cement Association v. Train*, 513 F.2d 506, 508 (D.C. Cir. 1975).

Finally, Section 301(a)(1) makes it clear that the Administrator may exercise his authority under Section 114 by regulation. It provides, "The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this chapter [the Act]." Therefore, the Administrator has the authority to prescribe by regulation the manner in which lidar may be used.

Another commentator objected in general terms that the rulemaking has not complied with Section 307(d) of the Act, but did not mention any specific defect. EPA agrees that the rulemaking is governed by Section 307(d), but believes that it fully complies with that section.

This commentator also objected that EPA is required to provide opportunity for hearings on this rulemaking in every state of the United States, under Section 110(c)(1), of the Act. This appears to refer to EPA's regulations on Approval and Promulgation of Implementation Plans, 40 CFR Part 52, which provide, in the General Provisions, § 52.12(c) that:

For the purpose of Federal enforcement, the following test procedures shall be used:

(1) Sources subject to plan provisions which do not specify a test procedure * * * will be tested by means of the appropriate procedures and methods prescribed in Part 60 of this chapter * * *

This provision, promulgated on May 31, 1972 (37 FR 10842, 18847), has governed all state plans approved under the Clean Air Act. It merely provides that where a state has not specified a procedure for testing a source's compliance with its plan, EPA will use the appropriate Federally-established test method.

The commentator implies that because 40 CFR 52.12(c) allows EPA to use Part 60 methods to enforce state plans, a rulemaking adding lidar to the Part 60 methods requires a hearing in each state. This is incorrect.

Section 110(c)(1) requires EPA to hold a hearing in a state only where the state has failed to submit an approvable

implementation plan, and EPA thereupon promulgates a plan for that state. This rulemaking does not deal with such a case. It merely establishes an alternate test method that may be used to enforce a state plan where a state has not otherwise provided.

Section 110 does not require that regulations of national applicability affecting state plans may be adopted only after opportunity for 55 hearings, one in each state.¹ Indeed, all such regulations have been promulgated without opportunity for a hearing in each state. See 40 CFR Part 52, Subparts A and EEE and Appendices, and Part 51. In particular, EPA has from time to time revised and updated its test methods, as it is now doing for Method 9. EPA has done so in every case by rulemakings without providing opportunity for hearings in every state. See generally 40 CFR Part 60, Appendix A (1980).

Section 307(d) also makes clear that Congress did not intend to require multiple hearings for rulemakings governing implementation plans. Section 307(d) establishes procedural requirements for EPA rulemakings, including all rulemakings relating to the prevention of significant deterioration ("PSD"). PSD rulemakings, both before and since Section 307(d) was added to the Act, have taken the form of regulations amending all state plans, or governing all state plans. See, 40 CFR 52.21 and 51.24 (1980). Section 307(d)(5), however, requires only a single public hearing for such rulemakings. EPA therefore fully complied with the Clean Air Act by holding a single public hearing for this rulemaking.

Finally, there was no reason to hold more than one hearing. Only seven persons requested a hearing. No one requested additional hearings, or gave any reason why hearings in other states should be held. Indeed, the commentator waived a request for any hearing. Since there was no reason to hold additional hearings, it was lawful for EPA not to hold them. See *American Airlines Inc. v. CAB*, 359 F. 2d 624, 632-633 (D.C. Cir. 1966); Clean Air Act Section 307(d)(9)(D)(i), (iii).

Applicable Documentation

This alternate method is issued under the authority of Sections 111, 114, and 301 of the Clean Air Act, as amended (42 U.S.C 7411, 7414, 7601).

The docket, Number A-79-41, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m.

¹ Under the Clean Air Act, "state" is defined to include the 50 states, plus five other areas. Section 302(d). Each of the 55 "states" has a plan. 40 CFR Part 52, Subparts B-DDD.

at EPA's Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, S.W., Washington, DC 20460.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not major because the annual effect on the economy is less than \$100 million. This is an alternate test method to an existing enforceable test method. It imposes no new regulatory requirements. The use of this alternate method is optional for opacity determination.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

Dated: October 19, 1981.

Anne M. Gorsuch,
Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

EPA is amending 40 CFR Part 60, Appendix A by adding an alternate method to Method 9 as follows:

Appendix A—Reference Methods

* * * * *

Method 9—Visual Determination of the Opacity of Emissions From Stationary Sources

* * * * *

Alternate Method 1—Determination of the Opacity of Emissions From Stationary Sources Remotely by Lidar

This alternate method provides the quantitative determination of the opacity of an emissions plume remotely by a mobile lidar system (laser radar; Light Detection and Ranging). The method includes procedures for the calibration of the lidar and procedures to be used in the field for the lidar determination of plume opacity. The lidar is used to measure plume opacity during either day or nighttime hours because it contains its own pulsed light source or transmitter. The operation of the lidar is not dependent upon ambient lighting conditions (light, dark, sunny or cloudy).

The lidar mechanism or technique is applicable to measuring plume opacity at numerous wavelengths of laser radiation. However, the performance evaluation and calibration test results given in support of this method apply only to a lidar that employs a ruby (red light) laser [Reference 5.1].

1. Principle and Applicability

1.1 Principle. The opacity of visible emissions from stationary sources (stacks, roof vents, etc.) is measured remotely by a mobile lidar (laser radar).

1.2 Applicability. This method is applicable for the remote measurement of the opacity of visible emissions from stationary

sources during both nighttime and daylight conditions, pursuant to 40 CFR § 60.11(b). It is also applicable for the calibration and performance verification of the mobile lidar for the measurement of the opacity of emissions. A performance/design specification for a basic lidar system is also incorporated into this method.

1.3 Definitions.

Azimuth angle: The angle in the horizontal plane that designates where the laser beam is pointed. It is measured from an arbitrary fixed reference line in that plane.

Backscatter: The scattering of laser light in a direction opposite to that of the incident laser beam due to reflection from particulates along the beam's atmospheric path which may include a smoke plume.

Backscatter signal: The general term for the lidar return signal which results from laser light being backscattered by atmospheric and smoke plume particulates.

Convergence distance: The distance from the lidar to the point of overlap of the lidar receiver's field-of-view and the laser beam.

Elevation angle: The angle of inclination of the laser beam referenced to the horizontal plane.

Far region: The region of the atmosphere's path along the lidar line-of-sight beyond or behind the plume being measured.

Lidar: Acronym for Light Detection and Ranging.

Lidar range: The range of distance from the lidar to a point of interest along the lidar line-of-sight.

Near region: The region of the atmospheric path along the lidar line-of-sight between the lidar's convergence distance and the plume being measured.

Opacity: One minus the optical transmittance of a smoke plume, screen, target, etc.

Pick interval: The time or range intervals in the lidar backscatter signal whose minimum average amplitude is used to calculate opacity. Two pick intervals are required, one in the near region and one in the far region.

Plume: The plume being measured by lidar.

Plume signal: The backscatter signal resulting from the laser light pulse passing through a plume.

1/R² correction: The correction made for the systematic decrease in lidar backscatter signal amplitude with range.

Reference signal: The backscatter signal resulting from the laser light pulse passing through ambient air.

Sample interval: The time period between successive samples for a digital signal or between successive measurements for an analog signal.

Signal spike: An abrupt, momentary increase and decrease in signal amplitude.

Source: The source being tested by lidar.

Time reference: The time (t₀) when the laser pulse emerges from the laser, used as the reference in all lidar time or range measurements.

2. Procedures.

The mobile lidar calibrated in accordance with Paragraph 3 of this method shall use the following procedures for remotely measuring the opacity of stationary source emissions:

2.1 Lidar Position. The lidar shall be positioned at a distance from the plume sufficient to provide an unobstructed view of the source emissions. The plume must be at a range of at least 50 meters or three consecutive pick intervals (whichever is greater) from the lidar's transmitter/receiver convergence distance along the line-of-sight. The maximum effective opacity measurement distance of the lidar is a function of local atmospheric conditions, laser beam diameter, and plume diameter. The test position of the lidar shall be selected so that the diameter of the laser beam at the measurement point within the plume shall be no larger than three-fourths the plume diameter. The beam diameter is calculated by Equation (AM1-1): $D(\text{lidar}) = A + R\phi \leq 0.75 D(\text{Plume})$ (AM1-1) where:

$D(\text{Plume})$ = diameter of the plume (cm),
 ϕ = laser beam divergence measured in radians

R = range from the lidar to the source (cm)
 $D(\text{Lidar})$ = diameter of the laser beam at range R (cm),

A = diameter of the laser beam or pulse where it leaves the laser.

The lidar range, R , is obtained by aiming and firing the laser at the emissions source structure immediately below the outlet. The range value is then determined from the backscatter signal which consists of a signal spike (return from source structure) and the atmospheric backscatter signal [Reference 5.1]. This backscatter signal should be recorded.

When there is more than one source of emissions in the immediate vicinity of the plume, the lidar shall be positioned so that the laser beam passes through only a single plume, free from any interference of the other plumes, for a minimum of 50 meters or three consecutive pick intervals (whichever is greater) in each region before and beyond the plume along the line-of-sight (determined from the backscatter signals). The lidar shall initially be positioned so that its line-of-sight is approximately perpendicular to the plume.

When measuring the opacity of emissions from rectangular outlets (e.g., roof monitors, open baghouses, noncircular stacks, etc.), the lidar shall be placed in a position so that its line-of-sight is approximately perpendicular to the longer (major) axis of the outlet.

2.2 Lidar Operational Restrictions. The lidar receiver shall not be aimed within an angle of $\pm 15^\circ$ (cone angle) of the sun.

This method shall not be used to make opacity measurements if thunderstorms, snowstorms, hail storms, high wind, high-ambient dust levels, fog or other atmospheric conditions cause the reference signals to consistently exceed the limits specified in Section 2.3.

2.3 Reference Signal Requirements. Once placed in its proper position for opacity measurement, the laser is aimed and fired with the line-of-sight near the outlet height and rotated horizontally to a position clear of the source structure and the associated plume. The backscatter signal obtained from this position is called the ambient-air or reference signal. The lidar operator shall inspect this signal [Section V of Reference 5.1] to: (1) determine if the lidar line-of-sight is free from interference from other plumes

and from physical obstructions such as cables, power lines, etc., for a minimum of 50 meters or three consecutive pick intervals (whichever is greater) in each region before and beyond the plume, and (2) obtain a qualitative measure of the homogeneity of the ambient air by noting any signal spikes.

Should there be any signal spikes on the reference signal within a minimum of 50 meters or three consecutive pick intervals (whichever is greater) in each region before and beyond the plume, the laser shall be fired three more times and the operator shall inspect the reference signals on the display. If the spike(s) remains, the azimuth angle shall be changed and the above procedures conducted again. If the spike(s) disappears in all three reference signals, the lidar line-of-sight is acceptable if there is shot-to-shot consistency and there is no interference from other plumes.

Shot-to-shot consistency of a series of reference signals over a period of twenty seconds is verified in either of two ways. (1) The lidar operator shall observe the reference signal amplitudes. For shot-to-shot consistency the ratio of R_i to R_n [amplitudes of the near and far region pick intervals (Section 2.61)] shall vary by not more than $\pm 6\%$ between shots; or (2) the lidar operator shall accept any one of the reference signals and treat the other two as plume signals; then the opacity for each of the subsequent reference signals is calculated (Equation AM1-2). For shot-to-shot consistency, the opacity values shall be within $\pm 3\%$ of 0% opacity and the associated S_0 values less than or equal to 8% (full scale) [Section 2.6].

If a set of reference signals fails to meet the requirements of this section, then all plume signals [Section 2.4] from the last set of acceptable reference signals to the failed set shall be discarded.

2.3.1 Initial and Final Reference Signals. Three reference signals shall be obtained within a 90-second time period prior to any data run. A final set of three reference signals shall be obtained within three (3) minutes after the completion of the same data run.

2.3.2 Temporal Criterion for Additional Reference Signals. An additional set of reference signals shall be obtained during a data run if there is a change in wind direction or plume drift at 30° or more from the direction that was prevalent when the last set of reference signals were obtained. An additional set of reference signals shall also be obtained if there is a change in amplitude in either the near or the far region of the plume signal, that is greater than 6% of the near signal amplitude and this change in amplitude remains for 30 seconds or more.

2.4 Plume Signal Requirements. Once properly aimed, the lidar is placed in operation with the nominal pulse or firing rate of six pulses/minute (1 pulse/10 seconds). The lidar operator shall observe the plume backscatter signals to determine the need for additional reference signals as required by Section 2.3.2. The plume signals are recorded from lidar start to stop and are called a data run. The length of a data run is determined by operator discretion. Short-term stops of the lidar to record additional reference signals do not constitute the end of a data run if plume signals are resumed

within 90 seconds after the reference signals have been recorded, and the total stop or interrupt time does not exceed 3 minutes.

2.4.1 Non-hydrated Plumes. The laser shall be aimed at the region of the plume which displays the greatest opacity. The lidar operator must visually verify that the laser is aimed clearly above the source exit structure.

2.4.2 Hydrated Plumes. The lidar will be used to measure the opacity of hydrated or so-called steam plumes. As listed in the reference method, there are two types, i.e., attached and detached steam plumes.

2.4.2.1 Attached Steam Plumes. When condensed water vapor is present within a plume, lidar opacity measurements shall be made at a point within the residual plume where the condensed water vapor is no longer visible. The laser shall be aimed into the most dense region (region of highest opacity) of the residual plume.

During daylight hours the lidar operator locates the most dense portion of the residual plume visually. During nighttime hours a high-intensity spotlight, night vision scope, or low light level TV, etc., can be used as an aid to locate the residual plume. If visual determination is ineffective, the lidar may be used to locate the most dense region of the residual plume by repeatedly measuring opacity, along the longitudinal axis or center of the plume from the emissions outlet to a point just beyond the steam plume. The lidar operator should also observe color differences and plume reflectivity to ensure that the lidar is aimed completely within the residual plume. If the operator does not obtain a clear indication of the location of the residual plume, this method shall not be used.

Once the region of highest opacity of the residual plume has been located, aiming adjustments shall be made to the laser line-of-sight to correct for the following: movement to the region of highest opacity out of the lidar line-of-sight (away from the laser beam) for more than 15 seconds, expansion of the steam plume (air temperature lowers and/or relative humidity increases) so that it just begins to encroach on the field-of-view of the lidar's optical telescope receiver, or a decrease in the size of the steam plume (air temperature higher and/or relative humidity decreases) so that regions within the residual plume whose opacity is higher than the one being monitored, are present.

2.4.2.2 Detached Steam Plumes. When the water vapor in a hydrated plume condenses and becomes visible at a finite distance from the stack or source emissions outlet, the opacity of the emissions shall be measured in the region of the plume clearly above the emissions outlet and below condensation of the water vapor.

During daylight hours the lidar operators can visually determine if the steam plume is detached from the stack outlet. During nighttime hours a high-intensity spotlight, night vision scope, low light level TV, etc., can be used as an aid in determining if the steam plume is detached. If visual determination is ineffective, the lidar may be used to determine if the steam plume is detached by repeatedly measuring plume opacity from the outlet to the steam plume along the plume's longitudinal axis or center

line. The lidar operator should also observe color differences and plume reflectivity to detect a detached plume. If the operator does not obtain a clear indication of the location of the detached plume, this method shall not be used to make opacity measurements between the outlet and the detached plume.

Once the determination of a detached steam plume has been confirmed, the laser shall be aimed into the region of highest opacity in the plume between the outlet and the formation of the steam plume. Aiming adjustments shall be made to the lidar's line-of-sight within the plume to correct for changes in the location of the most dense region of the plume due to changes in wind direction and speed or if the detached steam plume moves closer to the source outlet

encroaching on the most dense region of the plume. If the detached steam plume should move too close to the source outlet for the lidar to make interference-free opacity measurements, this method shall not be used.

2.5 Field Records. In addition to the recording recommendations listed in other sections of this method the following records should be maintained. Each plume measured should be uniquely identified. The name of the facility, type of facility, emission source type, geographic location of the lidar with respect to the plume, and plume characteristics should be recorded. The date of the test, the time period that a source was monitored, the time (to the nearest second) of each opacity measurement, and the sample interval should also be recorded. The wind

speed, wind direction, air temperature, relative humidity, visibility (measured at the lidar's position), and cloud cover should be recorded at the beginning and end of each time period for a given source. A small sketch depicting the location of the laser beam within the plume should be recorded.

If a detached or attached steam plume is present at the emissions source, this fact should be recorded. Figures AM1-I and AM1-II are examples of logbook forms that may be used to record this type of data. Magnetic tape or paper tape may also be used to record data.

BILLING CODE 6560-38-M

LIDAR LOG OF OPERATIONS

Control number: OMEGA-_____

Facility name and location: _____

LIDAR OPERATOR'S NOTES

(Include position of laser beam within plume--- attached plume, etc.)

At the field site on _____ from _____ to _____ (local time)
Location of LIDAR: _____Direction to source _____ Range to source _____ km
Laser inclination: (+ angle is up, horizontal is 0) _____
Source type and official designation: _____

Plume characteristics (color, shape, stream present, etc.): _____

Wind speed: begin _____ km/hr end _____ km/hr Wind direction: begin _____ end _____
Air temperature: begin _____ C end _____ C Relative humidity: begin _____ % end _____ %
Barometer: begin _____ end _____ Visibility: begin _____ km end _____ km
Cloud cover: begin _____ end _____

Data records made in field (tapes, photographs, photo's, etc.): _____

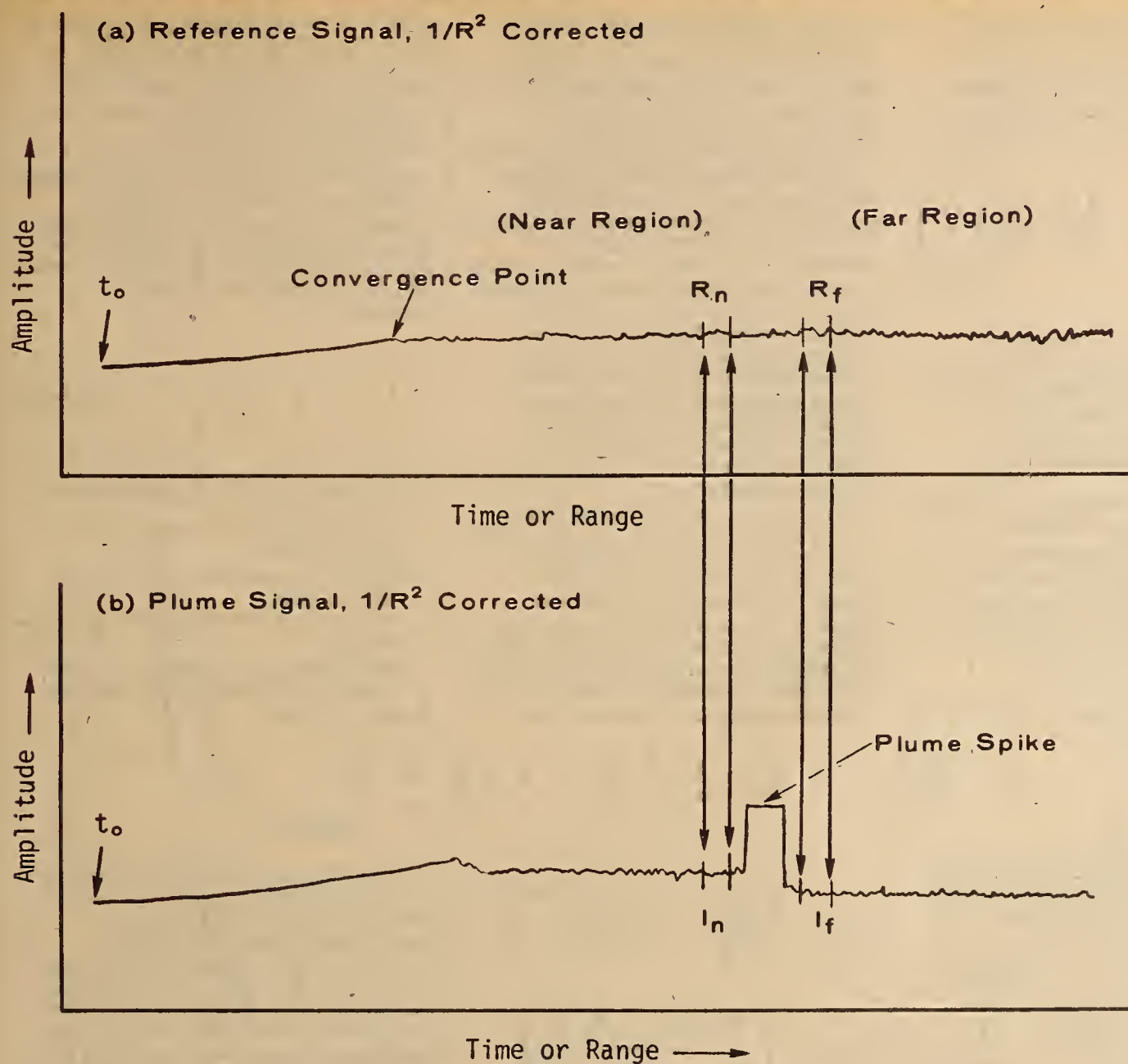
MAGNETIC TAPES

Tape # _____ Track # _____

LIDAR FUNCTION VERIFICATION		Source: optical generator () screens ()	
Date of last calibration: _____		This test recorded on tape# _____ track# _____	
Calibrated opacity	_____	1	2
Calculated opacity	_____	3	4
Recorded on file	_____	5	6
OPERATOR'S SIGNATURE: _____		7	8
WITNESS SIGNATURE: _____		DATE: _____	

OPERATOR'S SIGNATURE: _____ DATE: _____
WITNESS SIGNATURE: _____ DATE: _____

Figure AM1-II Lidar Log Of Operations



- (a) Reference signal, $1/R^2$ -corrected. This reference signal is for plume signal (b). R_n , R_f are chosen to coincide with I_n , I_f .
- (b) Plume signal, $1/R^2$ -corrected. The plume spike and the decrease in the backscatter signal amplitude in the far region are due to the opacity of the plume. I_n , I_f are chosen as indicated in Section 2.6.

Figure AML-III. Plots of Lidar Backscatter Signals

2.6 Opacity Calculation and Data Analysis. Referring to the reference signal and plume signal in Figure AM1-III, the measured opacity (O_p) in percent for each lidar measurement is calculated using Equation AM1-2. ($O_p = 1 - T_p$; T_p is the plume transmittance.)

$$O_p = (100\%) \left[1 - \left(\frac{I_f}{R_f} \frac{R_n}{I_n} \right)^{\frac{1}{2}} \right] \quad (\text{AM1-2})$$

where:

I_n = near-region pick interval signal amplitude, plume signal, $1/R^2$ corrected,
 I_f = far-region pick interval signal amplitude, plume signal, $1/R^2$ corrected,
 R_n = near-region pick interval signal amplitude, reference signal, $1/R^2$ corrected, and
 R_f = far-region pick interval signal amplitude, reference signal, $1/R^2$ corrected.

The $1/R^2$ correction to the plume and reference signal amplitudes is made by multiplying the amplitude for each successive sample interval from the time reference, by the square of the lidar time (or range) associated with that sample interval [Reference 5.1].

The first step in selecting the pick intervals

for Equation AM1-2 is to divide the plume signal amplitude by the reference signal amplitude at the same respective ranges to obtain a "normalized" signal. The pick intervals selected using this normalized signal, are a minimum of 15 m (100 nanoseconds) in length and consist of at least 5 contiguous sample intervals. In addition, the following criteria, listed in order of importance, govern pick interval selection. (1) The intervals shall be in a region of the normalized signal where the reference signal meets the requirements of Section 2.3 and is everywhere greater than zero. (2) The intervals (near and far) with the minimum average amplitude are chosen. (3) If more than one interval with the same minimum average amplitude is found, the interval closest to the plume is chosen. (4) The standard deviation, S_o , for the calculated opacity shall be 8% or less. (S_o is calculated by Equation AM1-7).

If S_o is greater than 8%, then the far pick interval shall be changed to the next interval of minimal average amplitude. If S_o is still greater than 8%, then this procedure is repeated for the far pick interval. This procedure may be repeated once again for the near pick interval, but if S_o remains greater than 8%, the plume signal shall be discarded.

The reference signal pick intervals, R_n and R_f , must be chosen over the same time

interval as the plume signal pick intervals, I_n and I_f , respectively [Figure AM1-III]. Other methods of selecting pick intervals may be used if they give equivalent results. Field-oriented examples of pick interval selection are available in Reference 5.1.

The average amplitudes for each of the pick intervals, I_n , I_f , R_n , R_f , shall be calculated by averaging the respective individual amplitudes of the sample intervals from the plume signal and the associated reference signal each corrected for $1/R^2$. The amplitude of I_n shall be calculated according to Equation (AM1-3).

$$I_n = \frac{1}{m} \sum_{i=1}^m I_{ni} \quad (\text{AM1-3})$$

where:

I_{ni} = the amplitude of the i th sample interval (near-region),
 Σ = sum of the individual amplitudes for the sample intervals,
 m = number of sample intervals in the pick interval, and
 I_n = average amplitude of the near-region pick interval.

Similarly, the amplitudes for I_f , R_n , and R_f are calculated with the three expressions in Equation (AM1-4).

$$I_f = \frac{1}{m} \sum_{i=1}^m I_{fi} \quad R_n = \frac{1}{m} \sum_{i=1}^m R_{ni} \quad R_f = \frac{1}{m} \sum_{i=1}^m R_{fi} \quad (\text{AM1-4})$$

The standard deviation, S_{In} , of the set of amplitudes for the near-region pick interval, I_n , shall be calculated using Equation (AM1-5).

$$S_{In} = \left[\frac{\sum_{i=1}^m \left(\frac{I_{ni} - I_n}{(m-1)} \right)^2 \right]^{\frac{1}{2}} \quad (\text{AM1-5})$$

Similarly, the standard deviations S_{If} , S_{Rn} , and S_{Rf} are calculated with the three expressions in Equation (AM1-6).

$$S_{If} = \left[\frac{\sum_{i=1}^m \left(\frac{I_{fi} - I_f}{(m-1)} \right)^2 \right]^{\frac{1}{2}} \quad (\text{AM1-6})$$

The standard deviation, S_o , for each associated opacity value, O_p , shall be calculated using Equation (AM1-7).

$$S_o = \frac{1}{2} \left(\frac{I_f}{R_f} \frac{R_n}{I_n} \right)^{\frac{1}{2}} \left[\frac{S_{In}^2}{I_n^2} + \frac{S_{If}^2}{I_f^2} + \frac{S_{Rn}^2}{R_n^2} + \frac{S_{Rf}^2}{R_f^2} \right]^{\frac{1}{2}} \quad (\text{AM1-7})$$

The calculated values of I_n , I_f , R_n , R_f , S_{In} , S_{If} , S_{Rn} , S_{Rf} , O_p , and S_o should be recorded. Any plume signal with an S_o greater than 8% shall be discarded.

2.6.1 Azimuth Angle Correction. If the azimuth angle correction to opacity specified in this section is performed, then the elevation angle correction specified in Section 2.6.2 shall not be performed. When opacity is measured in the residual region of an attached steam plume, and the lidar line-

of-sight is not perpendicular to the plume, it may be necessary to correct the opacity measured by the lidar to obtain the opacity that would be measured on a path perpendicular to the plume. The following method, or any other method which produces equivalent results, shall be used to determine the need for a correction, to calculate the correction, and to document the point within the plume at which the opacity was measured.

Figure AM1-IV(b) shows the geometry of the opacity correction. L' is the path through the plume along which the opacity measurement is made. P' is the path perpendicular to the plume at the same point. The angle ϵ is the angle between L' and the plume center line. The angle $(\pi/2 - \epsilon)$, is the angle between the L' and P' . The measured opacity, O_p , measured along the path L' shall be corrected to obtain the corrected opacity, O_{pc} , for the path P' , using Equation (AM1-8).

$$O_{pc} = 1 - (1 - O_p) \cos(\pi/2 - \epsilon) = 1 - (1 - O_p) \sin \epsilon \quad (\text{AM1-8})$$

The correction in Equation (AM1-8) shall be performed if the inequality in Equation (AM1-9) is true.

$$\epsilon \geq \sin^{-1} \left[\frac{\ln(1.01 - O_p)}{\ln(1 - O_p)} \right] \quad (\text{AM1-9})$$

Figure AM1-IV(a) shows the geometry used to calculate ϵ and the position in the plume at which the lidar measurement is made. This analysis assumes that for a given lidar measurement, the range from the lidar to the plume, the elevation angle of the lidar from the horizontal plane, and the azimuth angle of the lidar from an arbitrary fixed reference in the horizontal plane can all be obtained directly.

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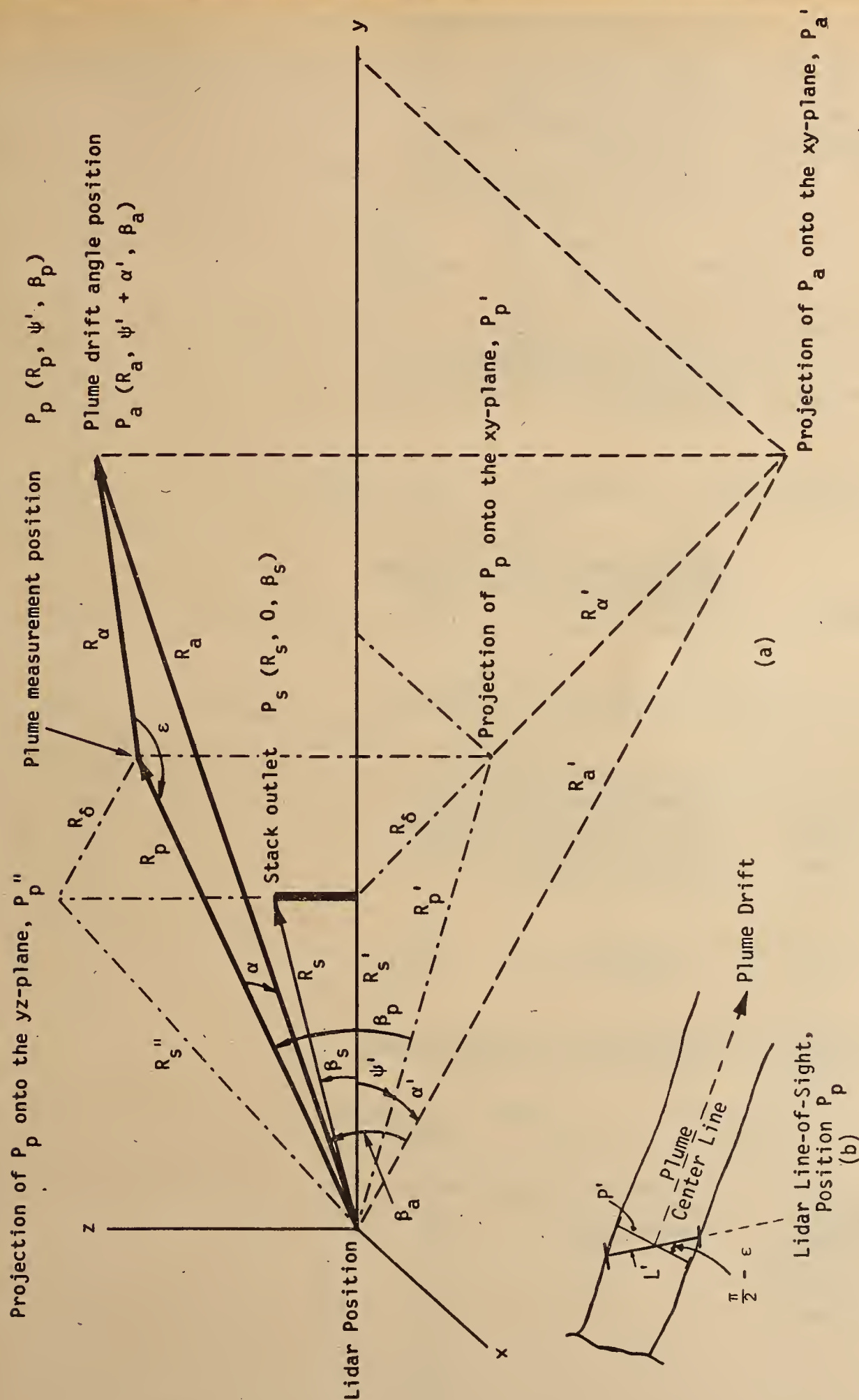


Figure AMI - IV. Correction in Opacity for Drift of the Residual Region of an Attached Steam Plume.

R_s =range from lidar to source*

β_s =elevation angle of R_s *

R_p =range from lidar to plume at the opacity measurement point*

β_p =elevation angle of R_p *

R_a =range from lidar to plume at some arbitrary point, P_a , so the drift angle of the plume can be determined*

β_a =elevation angle of R_a *

α =angle between R_p and R_a

R'_s =projection of R_s in the horizontal plane

R'_p =projection of R_p in the horizontal plane

R'_a =projection of R_a in the horizontal plane

ψ' =angle between R'_s and R'_p *

α' =angle between R'_p and R'_a *

$R\delta$ =distance from the source to the opacity measurement point projected in the horizontal plane

$R\alpha$ =distance from opacity measurement point P_p to the point in the plume P_a .

$$\epsilon = \sin^{-1} \left[\frac{R_a \sin \alpha}{R_\alpha} \right], \quad (\text{AM1-10})$$

The correction angle ϵ shall be determined using Equation AM1-10.

where:

$\alpha = \cos^{-1} (\cos \beta_p \cos \beta_a \cos \alpha' + \sin \beta_p \sin \beta_a)$,

and

$R\alpha = (R_p^2 + R_a^2 - 2 R_p R_a \cos \alpha)^{1/2}$

$R\delta$, the distance from the source to the opacity measurement point projected in the horizontal plane, shall be determined using Equation AM1-11.

$$R_\delta = (R_s'^2 + R_p'^2 - 2 R_s' R_p' \cos \psi')^{1/2}, \quad (\text{AM1-11})$$

where:

$R'_s = R_s \cos \beta_s$, and

$R'_p = R_p \cos \beta_p$.

centerline at the opacity measurement point is horizontal, parallel to the ground, Equation AM1-12 may be used to determine ϵ instead of Equation AM1-10.

In the special case where the plume

$$\epsilon = \cos^{-1} \left[\frac{R_p^2 + R_\delta^2 - R_s'^2}{2 R_p R_s} \right], \quad (\text{AM1-12})$$

where:

$R_s'' = (R_s'^2 + R_p^2 \sin^2 \beta_p)^{1/2}$.

If the angle ϵ is such that $\epsilon \leq 30^\circ$ or $\epsilon \geq 150^\circ$, the azimuth angle correction shall not be performed and the associated opacity value shall be discarded.

2.6.2 Elevation Angle Correction. An individual lidar-measured opacity, O_p , shall be corrected for elevation angle if the laser elevation or inclination angle, β_p [Figure AM1-V], is greater than or equal to the value calculated in Equation AM1-13.

$$\beta_p \geq \cos^{-1} \left[\frac{\ln(1.01 - O_p)}{\ln(1 - O_p)} \right] \quad (\text{AM1-13})$$

The measured opacity, O_p , along the lidar path L , is adjusted to obtain the corrected

opacity, O_{pc} , for the actual plume (horizontal) path, P , by using Equation (AM1-14).

$$O_{pc} = 1 - (1 - O_p)^{\cos \beta_p}, \quad (\text{AM1-14})$$

where:

β_p =lidar elevation or inclination angle,

O_p =measured opacity along path L , and

O_{pc} =corrected opacity for the actual plume thickness P .

The values for β_p , O_p and O_{pc} should be recorded.

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*Obtained directly from lidar. These values should be recorded.

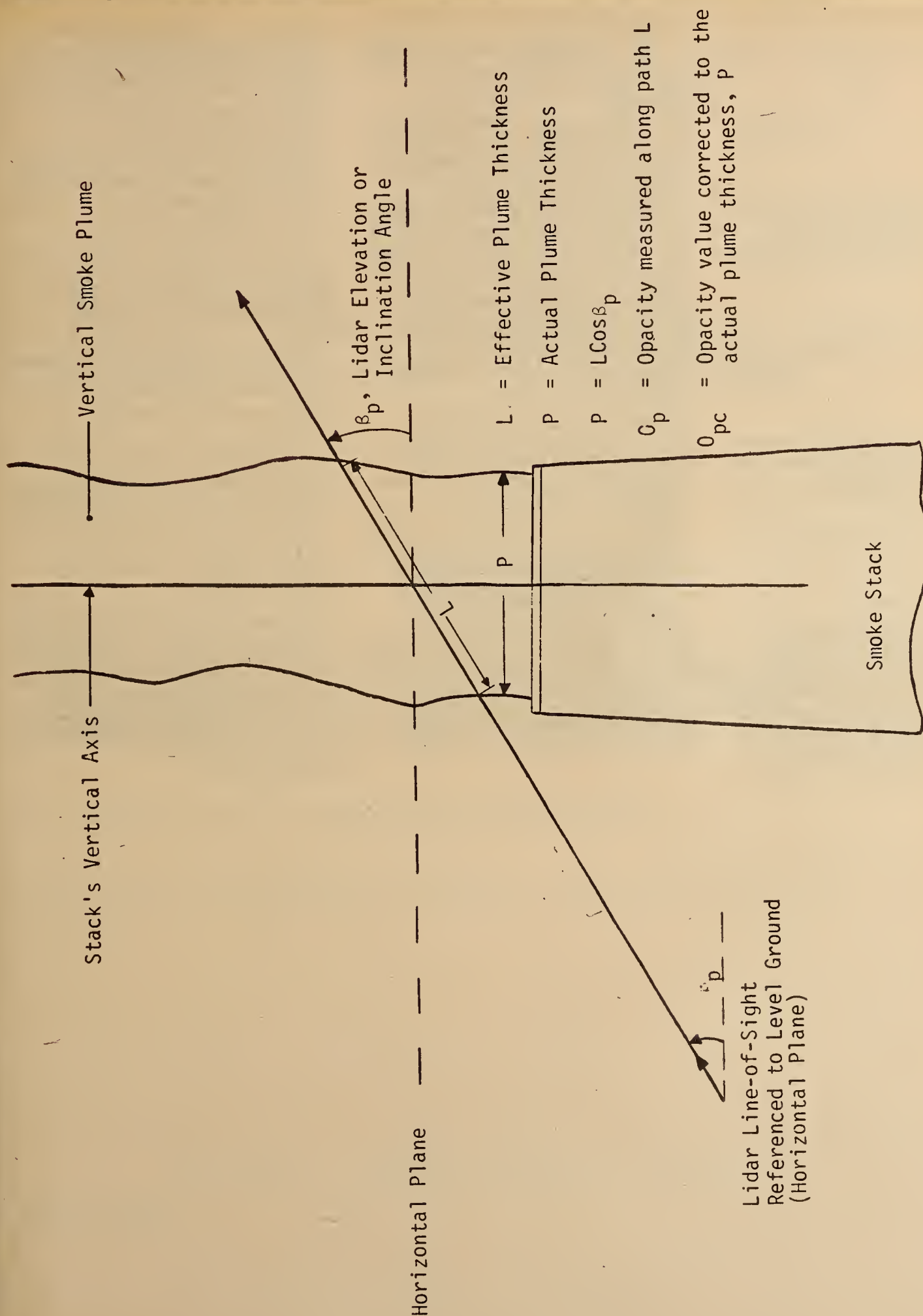


Figure AM1-V. Elevation Angle Correction for Vertical Plumes.

2.6.3 Determination of Actual Plume Opacity. Actual opacity of the plume shall be determined by Equation AM1-15.

$$O_{pa} = O_{pc} - [2 S_o + 5\%]. \quad (AM1-15)$$

2.6.4 Calculation of Average Actual Plume Opacity. The average of the actual plume opacity, \bar{O}_{pa} , shall be calculated as the average of the consecutive individual actual opacity values, O_{pa} , by Equation AM1-16.

$$\bar{O}_{pa} = \frac{1}{n} \sum_{k=1}^n (O_{pa})_k, \quad (AM1-16)$$

where:

$(O_{pa})_k$ = the k th actual opacity value in an averaging interval containing n opacity values; k is a summing index.

Σ = the sum of the individual actual opacity values.

n = the number of individual actual opacity values contained in the averaging interval.

\bar{O}_{pa} = average actual opacity calculated over the averaging interval.

3. Lidar Performance Verification. The lidar shall be subjected to two types of performance verifications that shall be performed in the field. The annual calibration, conducted at least once a year, shall be used to directly verify operation and performance of the entire lidar system. The routine verification, conducted for each emission source measured, shall be used to insure

proper performance of the optical receiver and associated electronics.

3.1 Annual Calibration Procedures. Either a plume from a smoke generator or screen targets shall be used to conduct this calibration.

If the screen target method is selected, five screens shall be fabricated by placing an opaque mesh material over a narrow frame (wood, metal extrusion, etc.). The screen shall have a surface area of at least one square meter. The screen material should be chosen for precise optical opacities of about 10, 20, 40, 60, and 80%. Opacity of each target shall be optically determined and should be recorded. If a smoke generator plume is selected, it shall meet the requirements of Section 3.3 of Reference Method 9. This calibration shall be performed in the field during calm (as practical) atmospheric conditions. The lidar shall be positioned in accordance with Section 2.1.

The screen targets must be placed perpendicular to and coincident with the lidar line-of-sight at sufficient height above the ground (suggest about 30 ft) to avoid ground-level dust contamination. Reference signals shall be obtained just prior to conducting the calibration test.

The lidar shall be aimed through the center of the plume within 1 stack diameter of the exit, or through the geometric center of the screen target selected. The lidar shall be set in operation for a 6-minute data run at a nominal pulse rate of 1 pulse every 10 seconds. Each backscatter return signal and each respective opacity value obtained from the smoke generator transmissometer, shall be obtained in temporal coincidence. The data shall be analyzed and reduced in accordance with Section 2.6 of this method. This calibration shall be performed for 0%

(clean air), and at least five other opacities (nominally 10, 20, 40, 60, and 80%).

The average of the lidar opacity values obtained during a 6-minute calibration run shall be calculated and should be recorded. Also the average of the opacity values obtained from the smoke generator transmissometer for the same 6-minute run shall be calculated and should be recorded.

Alternate calibration procedures that do not meet the above requirements but produce equivalent results may be used.

3.2 Routine Verification Procedures. Either one of two techniques shall be used to conduct this verification. It shall be performed at least once every 4 hours for each emission source measured. The following parameters shall be directly verified.

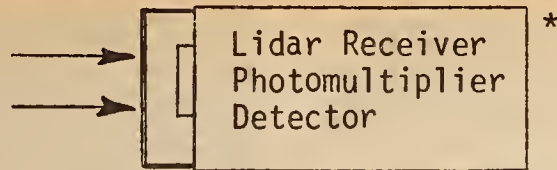
1) The opacity value of 0% plus a minimum of 5 (nominally 10, 20, 40, 60, and 80%) opacity values shall be verified through the PMT detector and data processing electronics.

2) The zero-signal level (receiver signal with no optical signal from the source present) shall be inspected to insure that no spurious noise is present in the signal. With the entire lidar receiver and analog/digital electronics turned on and adjusted for normal operating performance, the following procedures shall be used for Techniques 1 and 2, respectively.

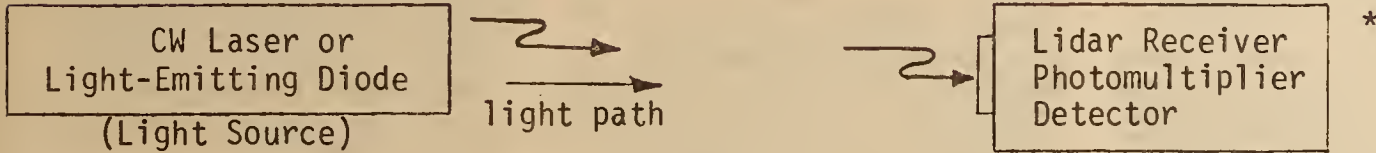
3.2.1 Procedure for Technique 1. This test shall be performed with no ambient or stray light reaching the PMT detector. The narrow band filter (694.3 nanometers peak) shall be removed from its position in front of the PMT detector. Neutral density filters of nominal opacities of 10, 20, 40, 60, and 80% shall be used. The recommended test configuration is depicted in Figure AM1-VI.

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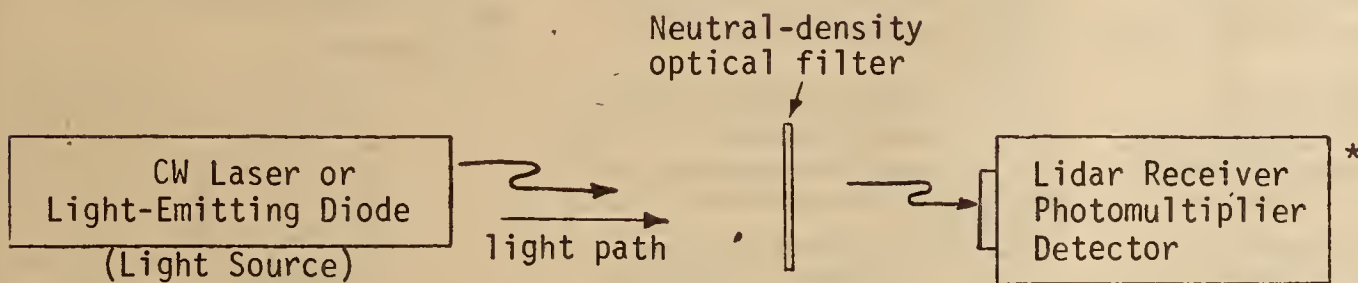
PMT Entrance
Window Completely
Covered



(a) Zero-Signal Level Test



(b) Clear-Air or 0% Opacity Test



(c) Optical Filter Test (simulated opacity values)

*Tests shall be performed with no ambient or stray light reaching the detector.

Figure AM1-VI. Test Configuration for Technique 1.

The zero-signal level shall be measured and should be recorded, as indicated in Figure AM1-VI(a). This simulated clear-air or 0% opacity value shall be tested in using the selected light source depicted in Figure AM1-VI(b).

The light source either shall be a continuous wave (CW) laser with the beam mechanically chopped or a light emitting diode controlled with a pulse generator (rectangular pulse). (A laser beam may have to be attenuated so as not to saturate the PMT detector). This signal level shall be measured and should be recorded. The opacity value is calculated by taking two pick intervals [Section 2.6] about 1 microsecond apart in time and using Equation (AM1-2) setting the ratio $R_n/R_t=1$. This calculated value should be recorded.

The simulated clear-air signal level is also employed in the optical test using the neutral density filters. Using the test configuration in Figure AM1-VI(c), each neutral density filter shall be separately placed into the light path from the light source to the PMT detector. The signal level shall be measured and should be recorded. The opacity value for each filter is calculated by taking the signal level for that respective filter (I_f), dividing it by the 0% opacity signal level (I_n) and performing the remainder of the calculation by Equation (AM1-2) with $R_n/R_t=1$. The calculated opacity value for each filter should be recorded.

The neutral density filters used for Technique 1 shall be calibrated for actual opacity with accuracy of $\pm 2\%$ or better. This calibration shall be done monthly while the filters are in use and the calibrated values should be recorded.

3.2.2 Procedure for Technique 2. An optical generator (built-in calibration

mechanism) that contains a light-emitting diode (red light for a lidar containing a ruby laser) is used. By injecting an optical signal into the lidar receiver immediately ahead of the PMT detector, a backscatter signal is simulated. With the entire lidar receiver electronics turned on and adjusted for normal operating performance, the optical generator is turned on and the simulation signal (corrected for $1/R^2$) is selected with no plume spike signal and with the opacity value equal to 0%. This simulated clear-air atmospheric return signal is displayed on the system's video display. The lidar operator then makes any fine adjustments that may be necessary to maintain the system's normal operating range.

The opacity values of 0% and the other five values are selected one at a time in any order. The simulated return signal data should be recorded. The opacity value shall be calculated. This measurement/calculation shall be performed at least three times for each selected opacity value. While the order is not important, each of the opacity values from the optical generator shall be verified. The calibrated optical generator opacity value for each selection should be recorded.

The optical generator used for Technique 2 shall be calibrated for actual opacity with an accuracy of $\pm 1\%$ or better. This calibration shall be done monthly while the generator is in use and calibrated value should be recorded.

Alternate verification procedures that do not meet the above requirements but produce equivalent results may be used.

3.3 Deviation. The permissible error for the annual calibration and routine verification are:

3.3.1 Annual Calibration Deviation.

3.3.1.1 Smoke Generator. If the lidar-

measured average opacity for each data run is not within $\pm 5\%$ (full scale) of the respective smoke generator's average opacity over the range of 0% through 80%, then the lidar shall be considered out of calibration.

3.3.1.2 Screens. If the lidar-measured average opacity for each data run is not within $\pm 3\%$ (full scale) of the laboratory-determined opacity for each respective simulation screen target over the range of 0% through 80%, then the lidar shall be considered out of calibration.

3.3.2 Routine Verification Error. If the lidar-measured average opacity for each neutral density filter (Technique 1) or optical generator selection (Technique 2) is not within $\pm 3\%$ (full scale) of the respective laboratory calibration value then the lidar shall be considered non-operational.

4. Performance/Design Specification for Basic Lidar System.

4.1 Lidar Design Specification. The essential components of the basic lidar system are a pulsed laser (transmitter), optical receiver, detector, signal processor, recorder, and an aiming device that is used in aiming the lidar transmitter and receiver. Figure AM1-VII shows a functional block diagram of a basic lidar system.

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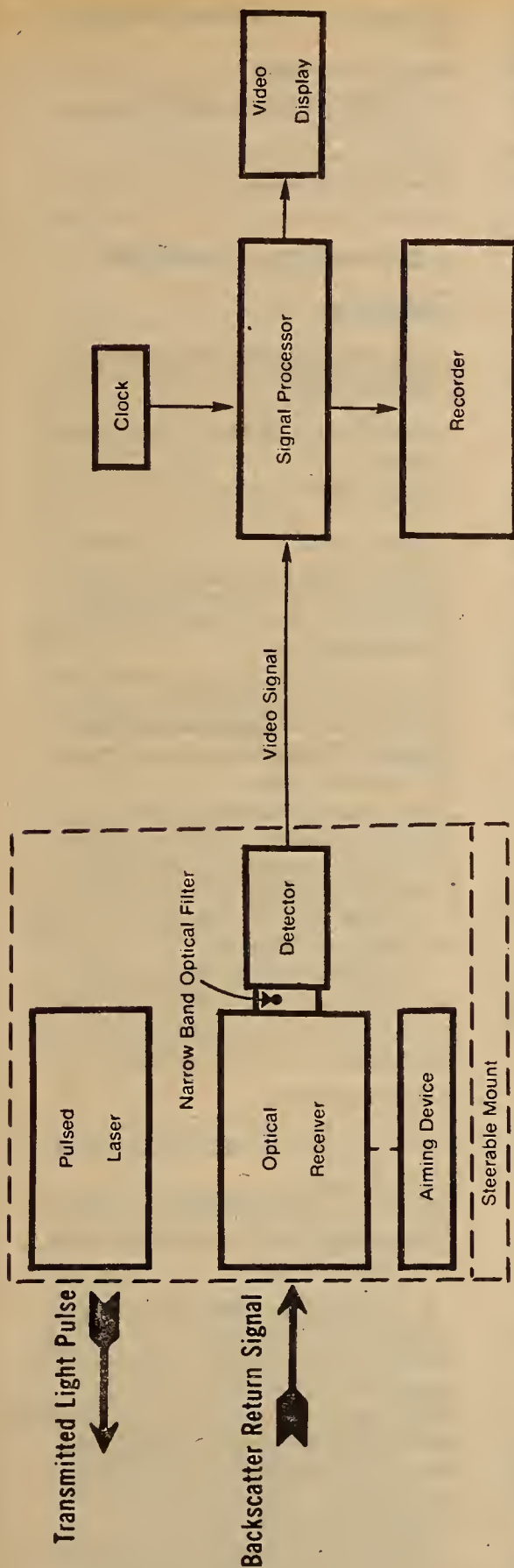


Figure AM1-VII. Functional Block Diagram of a Basic Lidar System

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4.2 Performance Evaluation Tests. The owner of a lidar system shall subject such a lidar system to the performance verification tests described in Section 3. The annual calibration shall be performed for three separate, complete runs and the results of each should be recorded. The requirements of Section 3.3.1 must be fulfilled for each of the three runs.

Once the conditions of the annual calibration are fulfilled the lidar shall be subjected to the routine verification for three separate complete runs. The requirements of Section 3.3.2 must be fulfilled for each of the three runs and the results should be recorded. The Administrator may request that the results of the performance evaluation be submitted for review.

5. References.

5.1 The Use of Lidar for Emissions Source Opacity Determination, U.S. Environmental Protection Agency, National Enforcement Investigations Center, Denver, CO, EPA-330/1-79-003-R, Arthur W. Dybdahl, current edition [NTIS No. PB81-246662].

5.2 Field Evaluation of Mobile Lidar for the Measurement of Smoke Plume Opacity, U.S. Environmental Protection Agency, National Enforcement Investigations Center, Denver, CO, EPA/NEIC-TS-128, February 1976.

5.3 Remote Measurement of Smoke Plume Transmittance Using Lidar, C. S. Cook, G. W. Bethke, W. D. Conner (EPA/RTP). Applied Optics 11, pg 1742, August 1972.

5.4 Lidar Studies of Stack Plumes in Rural and Urban Environments, EPA-650/4-73-002, October 1973.

5.5 American National Standard for the Safe Use of Lasers ANSI Z 136.1-176, 8 March 1976.

5.6 U.S. Army Technical Manual TB MED 279, Control of Hazards to Health from Laser Radiation, February 1969.

5.7 Laser Institute of America Laser Safety Manual, 4th Edition.

5.8 U.S. Department of Health, Education and Welfare, Regulations for the Administration and Enforcement of the Radiation Control for Health and Safety Act of 1968, January 1976.

5.9 Laser Safety Handbook, Alex Mallow, Leon Chabot, Van Nostrand Reinhold Co., 1978.

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[FR Doc. 81-31243 Filed 10-27-81; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6058

[SAC-074022]

California; Partial Revocation, Modification of Public Land Order No. 3249

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will provide for partial revocation and modification of the remainder of a withdrawal made by Public Land Order No. 3249 of October 10, 1963, a 33.44-acre tract remains withdrawn under the mining laws for a period of 20 years. All the lands have been open to operation of the public land laws generally, including applications and offers under the mineral leasing laws.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Celia Anderson, California State Office 916-484-4431.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 3249 of October 10, 1963, which withdrew 65 acres of public land for use as the South Fork Mountain Administrative Site, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 32 N., R. 6 W.,

Sec. 3, the unpatented portion of the SE $\frac{1}{4}$ NE $\frac{1}{4}$.

The area described contains approximately 34 acres in Shasta County.

2. At 10 a.m. on November 25, 1981, the public land described above will be open to location under the United States mining laws.

3. Public Land Order No. 3249 of October 10, 1963, which withdrew the public land described below, is hereby modified limiting segregation under the mining laws, to continue for 20 years from the date of this order.

Mount Diablo Meridian

T. 32 N., R. 6 W.,

Sec. 3, lot 5.

The area described contains 33.44 acres in Shasta County.

4. The withdrawal of the land described in paragraph three will be reviewed within 20 years from the date of this order and at subsequent 20-year intervals, if appropriate, to ensure the land is still being used for the purpose for which it was originally dedicated.

All the lands have been and continue to be open to operation of the public land laws generally, including applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Room E-2841, 2800

Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31214 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6060

[ORE 017358]

Oregon; Revocation of Public Land Order No. 3961

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This action revokes a Public Land Order which withdrew 321.45 acres of land for a material site. This action will restore the land to operation of the mining laws.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No 3961 of March 30, 1966, which withdrew the following described land for material site purposes, is hereby revoked:

Willamette Meridian

Reconveyed Coos Bay Wagon Road Land

T. 27 S., R. 12 W.,

Sec. 3, Lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$.

The area described contains 321.45 acres in Coos County, Oregon.

2. At 10 a.m., on November 25, 1981, the public land described above will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws and to such forms of disposition that may by law be made of Reconveyed Coos Bay Wagon Road land.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31216 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6061**[U-41587]****Utah; Partial Revocation of Public Water Reserve****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Public land order.

SUMMARY: This order partially revokes an Executive order and a Departmental order as to 27.32 acres withdrawn for public water reserve purposes. This action will restore the land to the operation of the public land laws generally, including location for nonmetalliferous minerals under the mining laws.

EFFECTIVE DATE: November 25, 1981.**FOR FURTHER INFORMATION CONTACT:**

Darrell Barnes, Utah State Office, 801-524-4245.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of April 17, 1926, creating Public Water Reserve No. 107, as constructed by Departmental Order of February 15, 1933, as Interpretation No. 177, is hereby revoked insofar as it affects the following described lands:

Salt Lake MeridianT. 9 N., R. 5 E.,
Sec. 9, lot 3.

The area described contains 27.32 acres in Rich County.

2. At 7:45 a.m., on November 25, 1981, the land described shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on November 25, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 7:45 a.m. on November 25, 1981, the land will be open to location for nonmetalliferous minerals. It has been open to applications and offers under the mineral leasing laws, and to location under the United States mining laws for metalliferous minerals.

Inquiries concerning the land should be addressed to the Chief, Branch of

Lands and Minerals Operations, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31217 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M**43 CFR Public Land Order 6055****[CA-3046]****California; Public Land Order No. 5932; Correction****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Public land order.

SUMMARY: This document will correct several errors in the land descriptions contained in Public Land Order No. 5932 of May 18, 1981.

EFFECTIVE DATE: October 28, 1981.**FOR FURTHER INFORMATION CONTACT:**

Marie M. Getsman, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

A description of lands in Public Land Order No. 5932 of May 18, 1981, published in the Federal Register of May 28, 1981, in FR Doc. 81-15905, is hereby corrected as follows:

(1) Page 28653, column 3, T. 32 N., R. 6 W., following Sec. 6 SE $\frac{1}{4}$ NE $\frac{1}{4}$, insert Sec. 10, Lot 4.

(2) Page 28654, column 1, following line 4, insert Sec. 32, E $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.

(3) Page 28654, column 1, delete line 6 which reads Sec. 34, Lots 5, 6, and 11, and N $\frac{1}{2}$ SW $\frac{1}{4}$.

(4) Page 28654, column 1, following the 16th line from the bottom which reads Sec. 31, SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$, insert Sec. 32, lots 1 and 6 and E $\frac{1}{2}$ NW $\frac{1}{4}$; Sec. 34, lots 5, 6, and 11, and N $\frac{1}{2}$ SW $\frac{1}{4}$.

(5) Page 28654 column 2, following T. 33 N., R. 6 W., Sec. 31, correct N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ to read N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31207 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M**43 CFR Public Land Order 6054****[CA-7100]****California; Revocation of an Interpretation of Public Water Reserve No. 107****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Public Land Order.

SUMMARY: This order revokes an interpretation of Public Water Reserve No. 107, which withdrew land for a public water reserve. This action will restore 40 acres of land to the full operation of the mining laws. The land will remain segregated from operation of the public land laws generally by a stock driveway withdrawal.

EFFECTIVE DATE: November 25, 1981.**FOR FURTHER INFORMATION CONTACT:**

Celia Anderson, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order of April 17, 1926, creating Public Water Reserve No. 107, as construed by the General Land Office Order Interpretation of October 30, 1942, is hereby revoked insofar as it affects the following described lands:

Mount Diablo MeridianT. 25 S., R. 38 E.,
Sec. 28, SW $\frac{1}{4}$ SW $\frac{1}{4}$.

The area described contains 40 acres in Kern County, California.

2. The above described public land remains segregated from operation of the public land laws generally by Secretarial Order of April 17, 1934, withdrawing lands for a stock driveway.

3. At 10 a.m. on November 25, 1981, the land will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and continues to be open to metalliferous mineral location under the mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31206 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6062

[CA-7242]

California; Revocation of Public Water Reserve No. 56**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Public Land Order.

SUMMARY: This order revokes an Executive order affecting 3,370 acres of lands withdrawn for the purpose of aiding in the conservation of the underground water supply of Coachella Valley, California. A portion of the lands totalling 1,400 acres is no longer in Federal ownership and is, therefore, not subject to the effects of this order. This action will restore the remaining lands to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: November 25, 1981.**FOR FURTHER INFORMATION CONTACT:**

Dianna Storey, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order of October 16, 1918, which withdrew lands as Public Water Reserve No. 56, is hereby revoked:

San Bernardino Meridian

T. 3 S., R. 4 E.,

Sec. 20, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;

Sec. 22, All;

Sec. 26, All;

Sec. 28, All;

Sec. 32, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;Sec. 34, N $\frac{1}{2}$;

Sec. 36, All.

The areas described aggregate 3,370 acres of land in Riverside County.

2. Of the above described lands, the N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 22, and Section 36 (totalling 760 acres) are no longer in Federal ownership and are not subject to the effects of this order. Also, the surface estate of Section 26 (totalling 640 acres) has been conveyed to the Coachella Valley County Water District pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended, under which the mineral estate has been reserved to the United States. Unless and until appropriate rules and regulations are issued by the Secretary, Section 26 will not be subject to location under the United States mining laws.

3. At 10 a.m. on November 25 1981, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the

provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 25 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The public lands will be open to location for nonmetalliferous minerals at 10 a.m. on November 25 1981. The lands have been and will continue to be open to location for metalliferous minerals and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31225 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6065

[CA-7543]

California; Partial Revocation of Public Water Reserve No. 135; Revocation of Interpretation No. 161**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Public land order.

SUMMARY: This order partially revokes an Executive order and totally revokes a Secretarial order which withdrew lands for public water reserve purposes. This action will restore 0.15 of an acre of land to operation of the public land laws generally, and to full operation of the mining laws. An additional 0.09 of an acre is privately owned and not subject to disposition under the public land laws.

EFFECTIVE DATE: November 25, 1981.**FOR FURTHER INFORMATION CONTACT:**

Celia Anderson, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order 5389 of July 7, 1930, creating Public Water Reserve No. 135, as construed by Secretarial Interpretation No. 161 of August 2, 1932, is hereby revoked insofar as it affects the following described lands:

Mount Diablo Meridian

T. 13 N., R. 8 W.,

Sec. 6, lots 7, 8, and 9.

The area described aggregates 0.24 of an acre in Lake County.

2. Of the lands described Paragraph 1, lot 9 (0.09 of an acre) is privately owned and not subject to disposition under the public land and mineral laws.

3. At 10 a.m. on November 25, 1981, the public lands will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 25, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. At 10 a.m. on November 25, 1981, the public lands will be open to nonmetalliferous mineral location under the United States mining laws. The lands have been open to applications and offers under the mineral leasing laws and to metalliferous mineral location under the United States mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, Room E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31228 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6072

[CA 7583]

California; Revocation of Executive Order No. 8776**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Public land order.

SUMMARY: This order revokes a withdrawal affecting 40 acres of land withdrawn in connection with Federal and State cooperative forest-protection work. Thus action will restore the land to the operation of the public land laws, including the location of nonmetalliferous minerals under the mining laws.

EFFECTIVE DATE: November 25, 1981.**FOR FURTHER INFORMATION CONTACT:**

Celia Anderson, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 8776 of June 10, 1941, which withdrew the following described lands from settlement, location, sale or entry, for use as a radio relay station in connection with Federal and State cooperative forest-protection work, is hereby revoked in its entirety:

Mount Diablo Meridian, California

T. 9 N., R. 7 W.,
Sec. 3, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains 40 acres in Napa County, California.

2. At 10:00 a.m. on November 25, 1981, the land shall be open to operation of the public land laws generally, subject to valid existing rights, the provision of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m., on November 25, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10:00 a.m. on November 25, 1981, the land will be open to nonmetalliferous mineral location under the United States mining laws. The land has been open to applications and offers under the mineral leasing laws and to metalliferous mineral location under the United States mining laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, Room E-2841, 2800 Cottage Way, Sacramento, California 95825.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
October 20, 1981.

[FR Doc. 81-31234 Filed 10-27-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6073

[CA 7545, CA 7546, CA 7547]

California; Modification of Withdrawal for Public Water Reserves

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will provide for the modification of withdrawals made by Executive Order of April 17, 1926, creating Public Water Reserve No. 107, which has been construed to apply to certain tracts of public land described in Secretarial Interpretation No. 251 dated March 8, 1939, Bureau of Land Management Interpretations dated July 8, 1942, and January 10, 1963. It has been determined that these lands will continue to be used as public water reserves for a minimum of 20 years. The

lands will be open to non-metalliferous mineral location under the mining laws. **EFFECTIVE DATE:** November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Celia Anderson, California State Office, 916-484-4431.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C 1714, it is ordered as follows:

1. The jurisdiction and use of Public Water Reserve No. 107 granted to the Bureau of Land Management by the Executive Order of April 17, 1926, as construed by Secretarial Interpretation No. 251 dated March 8, 1939, and Bureau of Land Management Interpretations dated July 8, 1942, and January 10, 1963, is hereby modified limiting segregation to the public land laws to continue for a period of 20 years from the date of this order. The lands are described as follows:

Mount Diablo Meridian

Maple Springs, Secretarial Interpretation No. 251 Dated March 8, 1939

T. 9 N., R. 6 W.,
Sec. 17, SW $\frac{1}{4}$ NE $\frac{1}{4}$.

The area described contains 40 acres in Napa County.

Horse Pasture Ridge Springs, Bureau of Land Management Interpretation dated July 8, 1942

T. 21 N., R. 11 W.,
Sec. 33, SE $\frac{1}{4}$ NE $\frac{1}{4}$.

The area described contains 40 acres in Mendocino County.

Devilhead Road Springs and Zim Zim Springs, Bureau of Land Management Interpretation dated January 10, 1963

T. 11 N., R. 5 W.,
Sec. 24, lot 6.
T. 11 N., R. 4 W.,
Sec. 19, NW $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described aggregates 75.47 acres in Napa County.

2. At 10 a.m. on November 25, 1981, the lands will be open to non-metalliferous mineral location under the United States mining laws. The lands have been and continue to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

3. Pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), these withdrawals will be reviewed within 20 years of the date of this order and, if appropriate, at subsequent 20-year intervals, to ensure that the lands are

still being used for the purpose for which they were originally withdrawn. Garrey E. Carruthers,

Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31235 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6070

[C-15690]

Colorado; Partial Revocation of Forest Service Withdrawals; Uncompahgre National Forest, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes portions of two Secretary's Orders to eliminate a duplication of Forest Service Withdrawals on the Silesca Administrative Site in the Uncompahgre National Forest. The land remains withdrawn by Public Land Order No. 2624 and closed to mining.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Secretary's Order of November 13, 1906, is hereby revoked as to the following described lands:

Uncompahgre National Forest

New Mexico Principal Meridian

T. 47 N., R. 11 W.,
Sec. 18, S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$.

The areas described contain 40 acres in Ouray and Montrose Counties.

2. Secretary's Order of December 15, 1906, is hereby revoked as to the following described land:

Uncompahgre National Forest

New Mexico Principal Meridian

T. 47 N., R. 11 W.,
Sec. 18, N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$.

Therefore, on the date of approval of this order, the above described lands will be relieved of the effect of the above stated orders. The lands remain withdrawn by Public Land Order No. 2624 of March 9, 1962, for use as a Forest Service administrative site and recreation area. The lands remain withdrawn under the United States mining laws.

Inquiries concerning this action should be directed to Chief, Branch of

Adjudication, Bureau of Land Management, 2000 Arapahoe, Denver, Colorado 80205.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
October 20, 1981.

[FR Doc. 81-31232 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6071

[C-0122950]

Colorado; Partial Revocation of Reclamation Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes portions of two Secretarial orders which withdrew lands reclamation purposes. This action will restore 320 acres to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Richard D. Tate, Colorado State Office, 303-837-2535.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order of May 23, 1946, withdrawing lands for the Gunnison-Arkansas Project, and Secretarial Order of December 18, 1958, withdrawing land for the Curecanti Unit, Colorado River Storage Project, are hereby revoked insofar as they affect the following described lands:

New Mexico Principal Meridian

T. 49 N., R. 3 W.,

Sec. 20, N $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 22, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 27, E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate approximately 320 acres.

2. At 7:45 a.m. on November 25, 1981, the above described lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on November 25, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands will be open to location under the United States mining laws at 7:45 a.m. on November 25, 1981. They have been open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Adjudication, Bureau of Land Management, 2000 Arapahoe, Denver, Colorado 80205.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
October 20, 1981.

[FR Doc. 81-31233 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6067

[NM-45734]

New Mexico; Partial Revocation of Powersite Reserve No. 759

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive order which withdrew lands for powersite purposes. This action will permit consummation of a pending exchange between the Forest Service and Catron County School District No. 1.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Stella V. Gonzales, New Mexico State Office, 505-988-6211.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to a determination of the Federal Energy and Regulatory Commission in DA-60 New Mexico, it is ordered as follows:

1. The Executive order of November 22, 1964, creating Powersite Reserve No. 759, is hereby revoked insofar as it affects the following described lands:

New Mexico Principal Meridian

Gila National Forest

T. 11 S., R. 20 W.,

Sec. 26, a portion of lot 3;

Sec. 27, a portion of lot 1.

The area described contains approximately 9.66 acres in Catron County.

2. Effective immediately, the lands shall be open to applications for disposal of the land under the General Exchange Act of March 20, 1922, 42 Stat. 465, as amended, 16 U.S.C. 485, 486, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
October 20, 1981.

[FR Doc. 81-31230 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6069

[Lakeview-016000]

Oregon; Revocation of Stock Driveway Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes two Secretarial orders which withdrew 200.84 acres of land for use as a stock driveway. This action will restore 160.84 acres of public land to operation of the public land laws generally. The balance of 40 acres remains withdrawn for the Klamath River Reclamation Project.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Orders of April 4, 1940, and November 12, 1940, which withdrew the following described public land for a stock driveway are hereby revoked:

Willamette Meridian

Stock Driveway No. 258

T. 39 S., R. 11 E.,

Sec. 19, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 30, NE $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 31, lots 1, 2, and 3.

The area described contains 200.84 acres in Klamath County.

2. The SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19 is withdrawn for the Klamath River Reclamation Project by Secretarial Order of July 31, 1919, and remains segregated from operation of the public land laws generally, including the mining laws.

3. At 10 a.m. on November 25, 1981, the land described in paragraph 1, except as provided in paragraph 2, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 25, 1981, shall be considered as simultaneously filed at the time. Those received thereafter shall be considered in the order of filing.

4. The land described in paragraph 1, except as provided in paragraph 2, has been and continues to be open to applications and offers under the mineral leasing laws and to location under the United States mining laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
October 20, 1981.

[FR Doc. 81-31231 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6074

[OR 22448]

Oregon; Revocation of Coal Land Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order which withdrew 24,028.67 acres of land from disposal under the coal land laws. This action will clear the record of the withdrawal.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT:

Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of June 21, 1907, which withdrew the following described land from disposal under the coal land laws is hereby revoked:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 32 S., R. 11 W.,
Sec. 25, E½E½;
Sec. 36, E½E½.

Siskiyou National Forest

T. 32 S., R. 11 W.,
Secs. 1 to 24, inclusive;
Sec. 25, W½E½ and W½;
Secs. 26 to 35, inclusive;
Sec. 36, W½E½ and W½.

The area described contains 24,028.67 acres in Coos County.

2. The coal laws have been repealed, and subject to other existing withdrawals, the national forest lands and Revested Oregon and California Railroad Grant Land involved have been and continue to be open to such forms of disposition as may by law be made of such lands, including the United States mining laws and mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director,

Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31236 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6063

[OR 20419]

Oregon; Revocation of Recreational Withdrawal No. 8

AGENCY: Bureau of Land Management, Interior

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order which withdrew 290.09 acres of land for protection of recreational values. This action permits restoration of the lands to operation of the mining laws provided appropriate rules and regulations are issued to allow mineral location on lands conveyed pursuant to the Recreation and Public Purposes Act.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT:

Champ C. Vaughan, Jr., Oregon State Office 502-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of December 13, 1927, which withdrew the following described lands for recreational purposes, is hereby revoked in its entirety:

Willamette Meridian

Recreational Withdrawal No. 8

T. 33 S., R. 15 W.,
Sec. 26, lot 4;
Sec. 35, lots 1, 2, 5, and NE¼.

The area described contains 290.09 acres in Curry County.

2. The surface estate of the above described lands have been conveyed from United States ownership pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869, 869-4); therefore, unless and until appropriate rules and regulations are issued, the lands will not be open to location under the United States mining laws. The lands have been and continue to be open to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director,

Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31226 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6064

[OR-19114]

Oregon; Powersite Restoration No. 756; Partial Revocation of Powersite Reserve No. 660

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive Order in part as to 400 acres of lands withdrawn for a powersite reserve. This action will restore the public land involved to operation of the public land laws generally.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT:

Champ C. Vaughan, Jr., Oregon State Office 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-563-Oregon, it is ordered as follows:

1. The Executive Order of December 12, 1917, which created Powersite Reserve No. 660 is hereby revoked so far as it affects the following described lands:

Willamette Meridian

Powersite Reserve No. 660

T. 2 S., R. 6 E.,
Sec. 25, N½NE¼.
T. 2 S., R. 7 E.,
Sec. 31, N½NE¼ and NE¼NW¼.

Revested Oregon and California Railroad Grant Land

T. 2 S., R. 6 E.,
Sec. 21, SE¼SW¼ and S½SE¼.
T. 2 S., R. 7 E.,
Sec. 31, S½NE¼.

The areas described aggregate 400 acres in Clackamas County.

2. The State of Oregon has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. The public land in the S½NE¼ of section 31, T. 2 S., R. 7 E., is included in a recreation site and remains withdrawn

from operation of the public land laws, including the United States mining laws.

4. The lands in the N $\frac{1}{2}$ NE $\frac{1}{4}$ of section 25, T. 2 S., R. 6 E., and in the N $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$ of section 31, T. 2 S., R. 7 E., have been conveyed from United States ownership and are not open to operation of the public land laws, including the mining laws and mineral leasing laws.

5. At 10 a.m., on November 25, 1981, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the public land in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$ of section 21, T. 2 S., R. 6 E., will be open to such forms of disposition as may by law be made of Revested Oregon and California Railroad Grant Land.

6. The above described lands, except as provided in paragraphs 3 and 4, have been open to applications and offers under the mineral leasing laws and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955, (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
October 20, 1981.

[FR Doc. 81-31227 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6056

[OR-19285]

Oregon; Revocation of Executive Order No. 4941

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order which withdrew 49.76 acres of public land as a lookout station. This action will restore the land to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 4941 of July 27, 1928, which withdrew the following described land for use by the Bureau of

Land Management as a lookout station, is hereby revoked:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 22 S., R. 7 W.,

Sec. 35, lot 7.

The area described contains 49.76 acres in Douglas County.

2. At 10 a.m., on November 25, 1981, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land will be open to such forms of disposition as may by law be made of Revested Oregon and California Railroad Grant Land.

3. At 10 a.m. on November 25, 1981, the land will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and continues to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
October 20, 1981.

[FR Doc. 81-31208 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6052

[OR-19127]

Oregon; Powersite Restoration No. 662; Partial Revocation of Powersite Reserve No. 730

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order in part as to 493.14 acres of land withdrawn for a powersite reserve. This action will restore 313.65 to operation of the public land laws generally, about 115.65 acres will be restored to national forest status and 63.84 acres have been conveyed from Federal ownership.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by

the Federal Energy Regulatory Commission in DA-540-Oregon, it is ordered as follows:

1. The Executive Order of February 19, 1920, which created Powersite Reserve No. 730 is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

Powersite Reserve No. 730—Revested Oregon and California Railroad Grant Land

T. 16 S., R. 8 W.,

Sec. 27, lots 17, 18, 23, 24, 25, 26, 31, and 32.

Siuslaw National Forest

T. 16 S., R. 8 W.,

Sec. 7, lots 2 and 4, and NW $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 19, lot 3 and NE $\frac{1}{4}$ NW $\frac{1}{4}$.

The area described contains 493.14 acres in Lane County.

2. The State of Oregon has waived its preference right for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. Lots 2 and 4 of section 7, T. 16 S., R. 8 W., have been conveyed from United States ownership and are not open to operation of the public land laws, including the mining laws and mineral leasing laws.

4. At 10 a.m. on November 25, 1981, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the above described lands, except as provided in paragraph 3, will be open to such forms of disposition as may by law be made of national forest lands and Revested Oregon and California Railroad Grant Land.

5. The above described lands, except as provided in paragraph 3, have been open to applications and offers under the mineral leasing laws and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
October 20, 1981.

[FR Doc. 81-31213 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6051

[OR-22445]

Oregon; Revocation of Coal Land Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order which withdrew 80 acres of land from disposal under the coal land laws. This action will clear the record of the withdrawal. The 40 acres of public land continues to be open to operation of the public land laws, including mining and mineral leasing. The remaining 40 acres are privately owned.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of October 13, 1906, which withdrew the following described lands from disposal under the coal land laws is hereby revoked.

Willamette Meridian

T. 29 S., R. 13 W.,
Sec. 29, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 26 S., R. 14 W.,
Sec. 28, NW $\frac{1}{4}$ NE $\frac{1}{4}$.

The areas described aggregate 80 acres in Coos County.

2. The coal land laws have been repealed, and the 40 acres of public land have been and continue to be open to operation of the public land laws generally, including the United States mining laws and mineral leasing laws. The remaining 40 acres described in T. 29 S., R. 13 W., Sec. 29, SW $\frac{1}{4}$ SW $\frac{1}{4}$ are privately owned.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31212 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6050

[OR-19299]

Oregon; Revocation of Executive Order No. 4456

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order which withdrew 40 acres of public land for use by the Bureau of Land Management as a fire warden camp. This action will restore

the land to operation of the public land laws generally, including nonmetalliferous mineral location under the mining laws.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Executive Order No. 4456 of June 7, 1926, which withdrew the following described public land for use by the Bureau of Land Management as a fire warden camp is hereby revoked in its entirety:

Willamette Meridian**Revested Oregon and California Railroad Grant Land**

T. 24 S., R. 3 W.,
Sec. 31, SE $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains 40 acres in Douglas County.

2. At 10 a.m. on November 25, 1981, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land will be open to such forms of disposition as may by law be made of Revested Oregon and California Railroad Grant Land.

3. At 10 a.m. on November 25, 1981, the land will be open to nonmetalliferous mineral location under the United States mining laws. The land has been and continues to be open to metalliferous mineral location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31211 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6049

[U-48505]

Utah; Partial Revocation of Public Land Order No. 2354

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a public land order as to 15 acres of lands

withdrawn by the Forest Service as an administrative site. This action will restore the lands to such forms of disposition as may by law be made of national forest lands.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Darrell Barnes, Utah State Office, 801-524-4245.

SUPPLEMENTARY INFORMATION: By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 2354 of April 27, 1961, which withdrew public lands for use by the Forest Service as administrative and public service sites, recreation areas, and roadside zones, is hereby revoked insofar as it affects the following described lands:

Salt Lake Meridian**Fishlake Administrative Site**

T. 25 S., R. 2 E.,
Sec. 33, S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains 15 acres in Sevier County.

2. At 10 a.m. on November 25, 1981, the lands will be open to such forms of disposition as may by law be made of national forest lands.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

October 20, 1981.

[FR Doc. 81-31210 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Public Land Order 6057

[U-41569]

Utah; Partial Revocation of Public Land Order No. 642

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a public land order which withdrew 132.85 acres as a public water reserve. This action will restore the lands to the operation of the public land laws generally, including location for nonmetalliferous minerals under the mining laws.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Darrell Barnes, Utah State Office, 801-524-4245.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and

Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 642 of May 9, 1950, creating Public Water Reserve No. 164, is partially revoked insofar as it affects the following described lands:

Salt Lake Meridian

T. 9 N., R. 5 E.,
Sec. 24, lots 1 & 2.
T. 9 N., R. 6 E.,
Sec. 19, lots 5 & 6.

The area described contains 132.85 acres in Rich County.

2. At 7:45 a.m. on November 25, 1981, the lands shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m. on November 25, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 7:45 a.m. on November 25, 1981, the lands will be open to location for nonmetalliferous minerals. They have been open to applications and offers under the mineral leasing laws, and to location under the United States mining laws for metalliferous minerals.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
October 20, 1981.
[FR Doc. 81-31209 Filed 10-27-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6066

[OR-19566 WASH]

Washington; Powersite Restoration No. 657, Partial Revocation of Powersite Reserve No. 250

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order in part as to 155 acres withdrawn for powersite reserve purposes. The lands are in private ownership.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office 503-231-6905

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and

Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-209—Washington, it is ordered as follows:

1. The Executive Order of March 11, 1912, which created Powersite Reserve No. 250, is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

Powersite Reserve No. 250

T. 27 N., R. 38 E.,
Sec. 22, lots 1, 2, and 3.
T. 27 N., R. 40 E.,
Sec. 20, lots 1 and 2.

The areas described aggregate 155 acres in Stevens and Lincoln Counties.

2. The lands have been conveyed from United States ownership and will not be restored to operation of the public land laws, including the mining laws and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

October 20, 1981.
Garrey E. Carruthers,
Assistant Secretary of the Interior.
[FR Doc. 81-31229 Filed 10-27-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6059

[W-73878]

Wyoming; Powersite Restoration No. 766; Partial Revocation of Powersite Reserve No. 348

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive order affecting 200.70 acres of land withdrawn for powersite purposes, and restores 113.28 acres to operation of the public land laws generally. The balance of the lands, 87.42 acres, will remain segregated from operation of the public lands laws generally, including the mining laws, by a Recreation and Public Purposes Act classification.

EFFECTIVE DATE: November 25, 1981.

FOR FURTHER INFORMATION CONTACT: W. Scott Gilmer, Wyoming State Office, 307-778-2220, extension 2336.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management

Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and Section 24 of the Federal Power Act of June 10, 1920, as amended, 41 Stat. 1075; 16 U.S.C. 818 (1976), and pursuant to the determination of the Federal Energy Regulatory Commission in DA-174—Wyoming, it is ordered as follows:

1. The Executive Order of March 27, 1913, creating Powersite Reserve No. 348, is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian

T. 52 N., R. 104 W.,

Sec. 16, lots 18, 21, and 22;
Sec. 18, lots 39 (now 49 and 50), 40, and 43;
Sec. 19, lots 12, 14, 15, 16, and 19 thru 24.

The area described contains 200.70 acres in Park County.

2. All of the lands in Section 18, and lots 12, 14, 15, and 16, of Section 19, have been and continue to be open to applications and offers under the mineral leasing laws, but remain segregated from operation of the public land laws generally, including the mining laws, by Recreation and Public Purposes Act classification W-0220465.

3. The State of Wyoming has waived its preference right of application for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

4. At 10 a.m. on November 25, 1981, the public lands, except those described in paragraph two shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on November 25, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been and continue to be open to applications and offers under the mineral leasing laws, and all the lands, except those described in paragraph two have been open to location under the mining laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Land and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
October 20, 1981.
[FR Doc. 81-31215 Filed 10-27-81; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 6053

[W-51098]

Wyoming; Powersite Restoration No. 738; Partial Revocation of Powersite Reserve Nos. 12 and 233**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Public Land Order.

SUMMARY: This order partially revokes two Executive orders which withdrew lands for powersite purposes. This action restores 240 acres to operation of the public land laws, including the mining laws. The remaining 120 acres are privately owned.

EFFECTIVE DATE: November 25, 1981.**FOR FURTHER INFORMATION CONTACT:**

W. Scott Gilmer, Wyoming State Office, 307-778-2220, Extension 2336.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and Section 24 of the Federal Power Act of June 10, 1920, as amended, 41 Stat. 1075; 16 U.S.C. 818, and pursuant to the determination of the Federal Energy Regulatory Commission in DA-172-Wyoming, it is ordered as follows:

1. The Executive Order of November 23, 1911, creating Powersite Reserve No. 233, is hereby revoked insofar as it affects the following described lands:

Sixth Principal Meridian

T. 48 N., R. 101 W.,
Sec. 26, W $\frac{1}{2}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$
(patented).

The area described contains 120.00 acres in Park County.

2. The Executive Order of July 2, 1910, creating Powersite Reserve No. 12, is hereby revoked insofar as it affects the following described lands:

T. 48 N., R. 101 W.,
Sec. 34, SW $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 48 N., R. 102 W.,
Sec. 28, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and S $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 29, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$ NE $\frac{1}{4}$.

The area described contains 240.00 acres in Park County.

3. The State of Wyoming has waived its preference right of application for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

4. At 10 a.m. on November 25, 1981, the public lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on

November 25, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been open and continue to be open to applications and offers under the mineral leasing laws, and to location under the United States mining laws.

Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82001.

Garrey E. Carruthers,
Assistant Secretary of the Interior.
October 20, 1981.

[FR Doc. 81-31205 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL MARITIME COMMISSION**46 CFR Parts 511 and 512**

[General Order 11, Revised; Amendment 1;
General Order 5 (Removed); Docket No. 81-46]

Financial Reports of Common Carriers by Water in the Domestic Offshore Trades**AGENCY:** Federal Maritime Commission.**ACTION:** Final rule.

SUMMARY: The Federal Maritime Commission hereby amends its rules governing the financial reporting requirements imposed on common carriers by water serving the domestic offshore trades of the United States. Part 511 of Title 46, CFR has been eliminated and Part 512 of Title 46, CFR has been amended to reduce the frequency and complexity of reporting requirements. This amendment will reduce the reporting burden on domestic offshore common carriers.

EFFECTIVE DATE: October 28, 1981.

FOR FURTHER INFORMATION CONTACT:
Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: In a proposed rule published in the Federal Register on July 22, 1981 (46 FR 37739), the Commission advised of its intent to eliminate Part 511 (General Order 5) and amend Part 512 (General Order 11, Revised), Title 46, Code of Federal Regulations. General Orders 5 and 11, Revised, comprise the Commission's regulations governing the financial reporting requirements applicable to vessel operating common carriers serving the domestic offshore trades of the United States.

General Order 11, Revised, was published in order to establish methodologies that the Commission would apply in evaluating the justness and reasonableness of rates filed by vessel operating common carriers serving the domestic offshore trades as well as to provide for the orderly acquisition of data necessary to such an evaluation. General Order 5 requires the submission by such vessel operating common carriers of reports containing company-wide financial and operational data. In its Notice of Proposed Rulemaking, the Commission indicated that it had reviewed the operation of General Orders 5 and 11, Revised, and that it believed that some relief from the regulatory burden imposed thereby was warranted. However, the Commission also emphasized therein the importance of the subject financial reporting requirements to the effective regulation of domestic rates. The final rules, therefore, lessen, to a reasonable degree, the regulatory burden imposed by General Orders 5 and 11, while maintaining the ability of the Commission to discharge its regulatory responsibilities.

Comments on the proposed rule were received from Puerto Rico Maritime Shipping Authority (PRMSA), Sea-Land Service, Inc. (Sea-Land), Matson Navigation Company, Inc. (Matson), Crowley Maritime Corporation (Crowley), United States Lines, Inc. (USL), Foss Alaska Line (Foss), American President Lines, Ltd. (APL), Tropical Shipping and Construction Co., Ltd. (Tropical), the Transportation Institute (TI) and the Joint Maritime Congress (JMC). These comments and the revisions that they have prompted will be discussed hereinafter. Although all comments were carefully reviewed and considered in formulating the final rule, not all of the minor comments, especially those which did not deal with substantive matters, are mentioned herein.

Section 512.2(b)

The Commission proposed to eliminate all General Order 5 reporting requirements. In their place, the Commission will now require that annual statements filed in accordance with General Order 11 be accompanied by a company-wide balance sheet and income statement having a time period coinciding with that of the General Order 11 report.

Crowley requests clarification of the proposed modification, inquiring whether the Commission will prescribe a specific format for the specified balance sheet and income statement.

Crowley believes that it would be appropriate for the Commission to authorize the use of the same financial statements that are filed with the Maritime Administration.

The Commission will not prescribe such a specific format. This section is designed to allow a filing carrier the greatest possible degree of flexibility in compiling its reports. While it is mandatory that the requisite balance sheet and income statement be company wide, it will be permissible for a carrier to utilize any such report that it has available, irrespective of the form of that report. In order to lessen the regulatory burden imposed by this section, the Commission will not require the conversion of an existing balance sheet or income statement to a particular format. Reports submitted to other regulatory agencies, as well as those constructed for corporate purposes, will be acceptable.

Section 512.2(f)

This section previously mandated that in those instances in which a carrier files with the Commission an increase or decrease in rates that would affect not less than 50 percent of its tariff items in a particular Trade or that would result in an increase or decrease of not less than 3 percent in its gross revenues in that particular Trade, it must simultaneously file financial data in support of its proposed rate adjustment. The Commission proposed to eliminate the reference to 50 percent of a carrier's tariff items, thus ensuring that a carrier will not be required to submit financial data in support of any rate adjustment that would occasion less than a 3 percent change in its gross Trade revenues.

Sea-Land, Crowley and Tropical suggest that this section be further refined by limiting its application to rate increases, as opposed to both rate increases and rate reductions. Both Sea-Land and Crowley point out that only competing carriers, not the shipping public, would be likely to object to a rate reduction and that if such an objection were received, the Commission would have authority under section 18(a) of the Shipping Act, 1916, and section 3(a) of the Intercoastal Shipping Act, 1933, to require the submission of financial data to determine whether the resulting rates were reasonable.

The Commission finds this argument to be persuasive. In this instance, the regulatory benefit to be derived by requiring the submission of financial data in support of rate reductions is outweighed by the burden that would thereby be imposed on a filing carrier.

The Commission will exercise its statutory authority to require justification of decreases in rates in those instances in which it appears that such adjustments are unwarranted, but will not impose a general filing requirement applicable to all rate reductions. Therefore, the word "decrease" has been eliminated from this section.

PRMSA suggests certain modifications in the wording of this section that it believes will serve to further clarify the reporting requirement set forth therein. Specifically, PRMSA advocates revising this section so as to conform to the Commission's proposed amendment of § 512.2(h). Section 512.2(h) contains the certification that a carrier must submit if it does not file financial data in conjunction with a proposed rate adjustment. In its Notice of Proposed Rulemaking, the Commission advised of its intent to modify this certification so as to limit the number of rate adjustments that could be filed without supporting financial data. It proposed to do so by imposing a ceiling of a 9 percent change over a 12 month period in a carrier's gross Trade revenues that could result from such adjustments. PRMSA believes that this limitation should be incorporated into § 512.2(f).

The Commission believes that there is merit in PRMSA's suggestion. Although the Commission intended only to limit the number of rate adjustments that could be filed annually without the submission of supporting data, not the number of rate adjustments that would occasion less than a 3 percent change in a carrier's gross Trade revenues, that intent was not clearly reflected in the proposed rules. Therefore, in order to clarify § 512.2(f), the Commission has incorporated therein language relating to the 9 percent ceiling.

Sea-Land suggests a further modification of the proposed amendment of this section. It is Sea-Land's position that § 512.2(f) should reflect the governing statutory language (i.e., the Intercoastal Shipping Act, 1933's definition of a general increase in rates). In other words, Sea-Land advocates limiting the rate adjustments that must be accompanied by supporting financial data to those which would affect 50 percent or more of a carrier's rate items in a particular Trade and (1) which would occasion an increase in that carrier's gross Trade revenues of 3 percent or more or (2) which would occasion an increase in that carrier's gross Trade revenues of less than 3 percent but when aggregated with other like adjustments filed during the preceding 12 months would result in an

increase in that carrier's gross Trade revenues of 9 percent or more.

Sea-Land's suggestion is well taken. In effect what Sea-Land is suggesting is that the 50 percent requirement contained in the existing rule be retained but that that requirement be applied conjunctively with the 3 percent limitation. Given the Commission's determination to impose a 9 percent ceiling on the across-the-board rate adjustments that can be filed without financial justification, adoption of Sea-Land's proposal is imperative. Absent such a modification of this section, it is conceivable that a carrier could file three across-the-board rate increases each of which would result in a 2.9 percent increase in its gross Trade revenues without being compelled to file supporting financial data, but would be required to file such data in conjunction with a subsequent individual commodity increase that occasioned only a .5 percent increase in its gross Trade revenues (i.e., $2.9\% + 2.9\% + 2.9\% + 0.5\% = 9.2\%$).

The Commission did not intend to require carriers to file extensive financial data in support of increases in individual tariff items. The Commission was concerned with across-the-board rate adjustments (i.e., adjustments affecting 50 percent or more of a carrier's tariff items). It was anticipated that a carrier would be compelled, for example, to justify the fourth rate adjustment of 2.9 percent that it filed within a twelve month period. Therefore, to eliminate the onerous possibility of a carrier being required to submit financial data in support of a rate adjustment impacting an insignificant number of tariff items, the Commission has modified this section to bring it into conformity with the statutory definition of a general rate increase. The final rule, therefore, also conforms to the filing requirements contained in Rule 67 of the Commission's Rules of Practice and Procedure, the procedural rule applicable to rate filings under the Intercoastal Shipping Act, 1933.

Section 512.2(g)

The Commission proposed to amend this section to allow a carrier to furnish its annual General Order 11 report for the fiscal year, in lieu of the schedules of actual data that otherwise would have to accompany a rate filing, if the subject rate adjustment were filed within 6 months of the end of that fiscal year. The existing rule limits such a substitution of data to instances in which rate adjustments are filed within

150 days of the end of the preceding fiscal year.

Sea-Land suggests that the Commission rely solely upon the annual General Order 11 reports and dispense entirely with the requirement that schedules of actual data accompany general rate filings in some instances. It is pointed out by Sea-Land that often the requisite schedules of actual data overlap the period reflected in the General Order 11 report. Foss advocates, in the alternative, that the substitution of an annual General Order 11 report be allowed if a rate adjustment is filed within 12 months, as opposed to 6 months, of the end of the carrier's preceding fiscal year.

Sea-Land raised the same point it has raised herein in Docket No. 78-46, the rulemaking proceeding in which General Order 11 was previously revised. The Commission rejected Sea-Land's suggestion in that instance and does not endorse it in the present proceeding. It is the Commission's belief that the submission of actual data is necessary in specified instances to provide the Commission with a relatively current perspective from which to assess the justness and reasonableness of a carrier's rates. In this instance, the Commission believes that its need for current information in order to discharge its regulatory responsibilities outweighs the regulatory burden imposed upon a filing carrier.

Likewise, the Commission has not accepted Foss' alternative proposal. Extension of the time period in which substitute data may be relied upon to the extent advocated by Foss would deprive the Commission of the requisite current perspective.

Section 512.2(h)

As was noted previously, it was proposed by the Commission that the certification set forth in this section be amended to impose a ceiling of a 9 percent change over a 12 month period in a carrier's gross Trade revenues that could result from rate adjustments filed by that carrier without supporting financial data. Foss suggests that due to current high inflation rates and competitive pressures, a 12 percent ceiling would be more realistic.

The Commission has expanded to a considerable degree, the range of rate adjustments that may be filed without supporting financial data. However, the Commission is responsible for regulating rates in the domestic offshore trades of the United States and must, if it is to discharge this responsibility in an effective and efficient fashion, have access to financial data relating to such rates. The Commission believes that if it

were to accept Foss' proposal, it would undermine its ability to fulfill its duties and responsibilities as a regulator. Therefore, Foss' suggested modification has not been incorporated into the final rules.

In order to simplify the certification process, the wording of this section has been amended to refer to § 512.2(f) rather than repeating the detailed limitations described therein.

Section 512.6(b)(1)

The Commission proposed to amend this section to remove from rate base vessels withdrawn from a service for the entire period for renovation or conversion. The existing rule did not expressly provide for such an exclusion.

PRMSA, Matson, Tropical, APL and JMC oppose the proposed modification. These commentators emphasize that this amendment could act as a deterrent to the renovation and conversion of vessels deployed in the domestic offshore trades and thereby serve as an obstacle to increased efficiency of service. Although acknowledging that the ratepayer should not be compelled to pay a return on assets not dedicated to the Service, these parties suggest that a vessel that has been employed in a given Service and that will return to that Service should be included in rate base even during a period of renovation or conversion. It is suggested that vessels that have been employed in a Service and that are withdrawn from that Service for renovation or conversion should be treated in the same manner as vessels temporarily out of service for drydocking and repairs.

The Commission finds some merit in these arguments. The Commission seeks to encourage, not discourage, efficiency of service in the domestic offshore trades. Clearly, a regulation that might discourage the necessary renovation or conversion of vessels operating in these trades would not encourage efficiency of service and, therefore, would not serve the public interest. However, the Commission does not believe that it is fair to burden the ratepayer by including in rate base those vessels, or any portion of the value thereof, that are withdrawn from the Service for renovation or conversion and that have not been and will not be dedicated exclusively to that Service. Therefore, the Commission will permit the inclusion in rate base of a vessel withdrawn from a Service for renovation or conversion for the entire period or any portion thereof if a carrier certifies that such a vessel *has been* employed exclusively in the Service for the twelve months immediately preceding withdrawal and *will be so*

employed for at least twelve months immediately after the completion of the renovation or conversion. It is believed that such a rule is equitable to both the carrier and the shipping public. The exclusive employment of a vessel in a Service for the twelve month periods prior to and following the renovation or conversion of that vessel strongly suggests the requisite intent to dedicate that vessel to the Service and, therefore, justifies its continued inclusion in rate base.

PRMSA suggests that § 512.6(b)(1) be clarified in two respects. PRMSA believes that this provision is ambiguous in regard to the treatment of vessels that are employed in the Service for less than the entire period but that are not employed during that same period in Other Services. The Commission agrees that the existing regulation does not clearly distinguish between those vessels that are and those that are not dedicated to a single Service. Therefore, additional descriptive language has been included in the final version of § 512.6(b)(1)(i)(B) establishing its applicability to vessels employed in two or more Services. Section 512.6(b)(1)(i)(A) applies to vessels employed in only one Service.

PRMSA further asserts that § 512.6(b)(1)(i)(A) does not clearly allow the total Adjusted Cost of a vessel dedicated to a Service but laid-up for part of the period because of seasonal cargo fluctuations to be included in the assets that may be allocated to the Trade. The Commission does not believe that the wording of the cited provision need be clarified. Lay-ups due to seasonal cargo fluctuations fall within the category of "normal periodic lay-ups." Normal periodic lay-ups do not necessitate an exclusion on a pro-rata basis of the Adjusted Cost of a vessel dedicated to the Service. Therefore, the total Adjusted Cost of a vessel dedicated exclusively to the Service can be included in Trade rate base even though that vessel is laid-up for part of the period due to seasonal cargo fluctuations.

Finally, PRMSA advocates amending 512.6(b)(1)(i)(A) to allow the assignment to the Service of 60 days of the period during which a vessel that had been employed in the Service is laid up pending disposition. It is submitted that the allowance of such an assignment would constitute a recognition that a carrier cannot dispose of a vessel instantly and ought to be provided a reasonable amount of time to effectuate the disposition of a vessel that has been employed in the Service.

The Commission agrees in part with PRMSA's suggestion. Assignment to the Service of 60 days of the period during which a vessel that has been employed exclusively in the Service is laid-up pending disposition would not impose an unfair burden on the ratepayers who have been served by that vessel. Further, as PRMSA notes, allowance of such an assignment would constitute a recognition that disposal of such a vessel is an aspect of the Service and hence properly assignable to the Trade. However, the Commission believes that allowance of a specified period for the disposition of a vessel is only warranted in those instances in which the vessel has been dedicated to the Service. Therefore, section 512.6(b)(1)(i)(A) has been amended to permit the assignment of 60 days of the period during which a vessel that has been employed exclusively in the Service for the preceding 12 months is permanently withdrawn from the Service and laid-up pending disposition.

Section 512.6(c)(2)

This section was amended in the proposed rules to provide for the exclusion of depreciation and profit included in related company transactions from vessel operating expense. No such exclusion had been previously mandated.

Matson has expressed concern that the proposed modification creates certain ambiguities. Specifically, Matson believes that as drafted the proposed rules did not clearly sanction the like treatment of the depreciation expense of related companies and the depreciation expense of the carrier. Further, Matson submits that the amended language appears to require that the profits arising from related company transactions must be charged to the carrier as income, as well as a reduction in expense.

In order to remedy any possible ambiguity, the Commission has revised its proposed amendment in the final rules. The object of the proposed amendment was to eliminate depreciation and profit included in related company transactions from the calculation of Working Capital. In order to more clearly accomplish this aim, the Commission has eliminated the proposed additional language that had been incorporated into this section. In addition, the Commission has eliminated the reference to related company transactions in 512.5(s) and amended 512.6(c)(11), the provision governing the reporting of related company transactions, to assure that profits arising from related company transactions will not be included in a

carrier's income. A new provision, section 512.2(p), has also been added. Section 512.2(p) mandates that related company assets and owned assets are to be reported in the same manner, and that other intercompany transactions are to be shown net of intercompany profit and reported on the appropriate schedules. The Commission believes that these modifications eliminate the ambiguities complained of by Matson.

No objections were received to the remaining modifications detailed in the Notice of Proposed Rulemaking. All commentators expressed their approval of these amendments and the attempt implicit therein to lessen the regulatory burden imposed on vessel operating common carriers serving the domestic offshore trades.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rulemaking will affect only vessel operating common carriers which are not generally small entities within the meaning of 5 U.S.C. 601(6).

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the amendments contained herein have been approved by the Office of Management and Budget for use through March 31, 1983 and assigned OMB No. 3072-0008.

Therefore, pursuant to 5 U.S.C. 553, sections 18, 21 and 43 of the Shipping Act, 1916 (46 U.S.C. 817, 820 and 841(a)) and sections 1, 2, 3(a), 4 and 7 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 843, 844, 845, 845(a) and 847), Parts 511 and 512, Title 46, Code of Federal Regulations, are amended by the Federal Maritime Commission as set forth hereinafter.

PART 512—FINANCIAL REPORTS OF COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

46 CFR Part 512 is amended to read as follows:

§ 512.2 [Amended]

1. The filing address shown in paragraph (a) is revised to read as follows: Federal Maritime Commission, Bureau of Tariffs, 1100 L Street NW., Washington, D.C. 20573.

2. Paragraph (b) is revised to read as follows:

(b) Annual statements under this part shall be filed within 150 days after the close of the carrier's fiscal year and be accompanied by a company-wide balance sheet and income statement having a time period coinciding with

that of the annual statements. A specific format is not prescribed for the company-wide statements.

* * * * *

3. Paragraph (d) is amended to eliminate the Federal Register notice of alternative data applications by removing the final sentence.

4. Paragraph (e) is amended to increase the waiver amount from \$5,000,000 to \$10,000,000.

5. The introductory text of paragraph (f) is amended to read as follows:

* * * * *

(f) Whenever a carrier files with the Commission an increase in rates which would affect 50 percent or more of the rate items listed in all of its tariffs in a particular Trade and (1) which would result in an increase of not less than 3 percent in the carrier's gross revenues in that Trade or (2) which would result in an increase of less than 3 percent in the carrier's gross revenues in that Trade, but, when aggregated with other rate changes filed during the preceding twelve months which have also resulted in increases of less than 3 percent in the carrier's gross revenues in that Trade would result in an increase of 9 percent or more in the carrier's gross revenues in that Trade, it shall simultaneously file in duplicate:

* * * * *

6. Paragraph (f)(1)(i) is amended to change "fourteen (14) months" to "fifteen (15) months".

7. Paragraph (g) is amended to change "150 days" to "six (6) months".

8. Paragraph (h) is amended to change the certification to read as follows:

Certification

I, [type or print name of officer] of [name of reporting company], certify, under penalty of 18 U.S.C. § 1001, that the proposed rate increase submitted herewith is not required by section 512.2(f) of this part to be accompanied by the financial and operating data described therein.

Signature: _____

Title: _____

Date: _____

9. Paragraph (l) is revised to read as follows:

* * * * *

(1) With respect to the annual statements required by this part, all data shown must conform or be reconciled to the figures listed in the balance sheet and income statement filed therewith.

* * * * *

10. Paragraph (p) is added to read as follows:

* * * * *

(p) Related company assets employed in the Service shall be reported in the same manner as owned assets. Other

intercompany transactions shall be shown net of intercompany profit and reported on the appropriate schedule. Any calculations involving intercompany accounts shall be included in the working papers.

* * * * *

§ 512.3 [Amended]

1. In the introductory text, the phrase "books, accounts and financial records" is amended to read "books of account and financial records".

2. In paragraph (a), the phrase "books and accounts" is amended to read "books of account".

§ 512.5 [Amended]

1. Paragraph (f)(2)(ii) is amended to change "Commonwealth of the Northern Marianas" to "Northern Marianas".

2. Paragraph (f)(2)(vii) is amended to change "State of Alaska" to "Alaska".

3. Paragraph (f)(2)(viii) is amended to change "State of Hawaii" to "Hawaii".

4. Paragraph (o) is revised to read as follows:

* * * * *

(o) *Vessel Operating Expense:*

(1) For carriers required to file Form FMC-378: the total of Direct Vessel, Port, Terminal and Container/Barge Expenses, less Other Revenue.

(2) For carriers required to file Form FMC-377: the total of Direct Vessel and Other Shipping Operations Expenses, less Other Revenue.

* * * * *

5. Paragraphs (s), (t) and (u) are revised to read as follows:

* * * * *

(s) *Trade Operating Expense*—The total of all expenses shown on Exhibit B (Income Account), including Federal income taxes.

(t) *Company Operating Expense*—The total of all expenses shown on the company-wide income statement, including Federal income taxes.

(u) *Operating Expense Relationship*—The ratio of Trade Operating Expense to Company Operating Expense.

§ 512.6 [Amended]

1. Paragraph (a)(1), introductory text, is revised to read as follows:

(a) * * *

(1) The submission required by this Part shall be in the prescribed format and shall include General Information regarding carrier ownership and stockholders, as well as the following schedules as applicable:

* * * * *

2. Paragraph (a)(2) is revised to read as follows:

(a) * * *

(2) Statements containing the required exhibits and schedules are described in

paragraphs (b), (c), (d), (e) and (f) of this section and are available upon request from the Commission. The required General Information, schedules and exhibits are contained in forms FMC-377 and FMC-378. For carriers required to file Form FMC-378, the statements are based on the Uniform System of Accounts for Maritime Carriers prescribed by the Maritime Administration and the Interstate Commerce Commission. For carriers required to file Form FMC-377, the statements are based on the accounts prescribed by the Interstate Commerce Commission for Carriers by Inland and Coastal Waterways. The schedules contained in these statements are distinguished from those contained in the Form FMC-378 statements by the suffix "A" (e.g., Schedule A-IV(A)).

* * * * *

3. Paragraph (b)(1) is amended to eliminate the reference to Forms FMC-63 and FMC-64 by removing the final sentence.

4. Paragraph (b)(1)(i)(A) is revised to read as follows:

* * * * *

(b) * * *

(1) * * *

(i) * * *

(A) For those cargo vessels employed exclusively in the Service for the entire period, inclusive of normal periodic lay-ups, the Adjusted Cost shall be included in the total to be allocated to the Trade. If a vessel is permanently withdrawn from the Service during the period and laid up pending disposition and that vessel has been employed exclusively in the Service for the preceding 12 months, sixty days of the lay-up period may be assigned to the Service. If a vessel is withdrawn from the Service for renovation or conversion, and if the carrier certifies that that vessel has been employed exclusively in the Service for the twelve month period immediately prior to withdrawal and will be employed exclusively in the Service for a period of at least 12 months after the renovation or conversion is completed, the Adjusted Cost shall be included in the total to be allocated to the Trade.

* * * * *

5. Paragraph (b)(1)(i)(B) is revised to read as follows:

* * * * *

(b) * * *

(1) * * *

(i) * * *

(B) For those cargo vessels employed in the Service for less than the entire period and in Other Services for any portion of the period, the Adjusted Cost shall be prorated between voyages in the Service and voyages in Other

Services. The total number of days of service excludes lay-up days and is therefore likely to be less than the number of days in the reporting period. Lay-up days of vessels in this category will normally be allocated to the respective Services on the same basis used in allocating the Adjusted Cost of such vessels, i.e., active days. However, if one or more of the vessels normally employed in the Service has been diverted temporarily to Other Services in lieu of incurring lay-up expense, no assignment of lay-up time to Other Services is required. That portion of the Adjusted Cost of the vessels not allocated to other Services shall be included in the total to be allocated to the Trade.

6. Paragraph (b)(2)(i) is amended to eliminate the reference to Forms FMC-63 and FMC-64.

7. Paragraph (b)(4)(i) is amended to eliminate the reference to Forms FMC-63 and FMC-64.

8. Paragraph (b)(4)(iii) is removed.

9. Paragraphs (b)(5) and (6) are revised to read as follows:

* * * * *

(b) * * *

(5) *Working Capital (Schedule A-VI):*

Working Capital for vessel operators shall be determined as average voyage expense. Average voyage expense shall be calculated on the basis of the actual expenses of operating and maintaining the vessel(s) employed in the Service (excluding lay-up expenses) for a period represented by the average length of time of all voyages (excluding lay-up periods) during the period in which any cargo was carried in the Trade. Expenses for operating and maintaining the vessels employed in the Trade shall include: Direct Vessel Expense, Port Expense, Terminal Expense, Container/Barge Expense, Administrative and General Expense and Interest Expense allocated to the Trade as provided in § 512.6(c) (2), (4) and (5). For this purpose, if the average voyage, as determined above, is of less than 90 days duration, the expense of hull and machinery insurance and protection and indemnity insurance (accounts 730 and 732, respectively) shall be determined to be 90 days, provided that such allowance for insurance expense shall not, in the aggregate, exceed the total actual insurance expense for the period.

(6) *Working Capital (Schedule A-VI(A)):*

Working Capital for tug and barge operators shall be determined as the average monthly expense. Average monthly expense shall be equal to one-twelfth of the expense of the carrier during the relevant 12-month period,

computed by adding gross Vessel Operating Expense, Administrative and General Expense-Net, Interest Expense and Inactive Vessel Expense, each as allocated to the Trade, and dividing the total by 12.

10. Paragraph (b)(7) is amended to eliminate the reference to Forms FMC-63 and FMC-64.

11. Paragraph (c)(3) is revised to read as follows:

(c) * * *
(3) *Vessel Operating Expense*
(Schedule B-II(A)):

This schedule shall be submitted by tug and barge operators. Where multiple barge units are towed by a single tug, vessel expense shall be allocated on the basis of the cargo-cube relationship.

12. Paragraph (c)(9)(i) is amended to eliminate the reference to Forms FMC-63 and FMC-64.

13. Paragraph (c)(11) is revised to read as follows:

(c) * * *
(11) *Related Company Transactions*

Income account transactions with related companies shall be shown net of intercompany profit on the appropriate schedule and allocated to the Trade on the same basis as other items in that schedule.

14. Paragraphs (e)(2) and (f)(2) are amended to change "books, accounts and financial records" to "books of account and financial records".

PART 511—REPORTS BY COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES [Removed]

46 CFR Part 511 is removed.

By the Commission:

Francis C. Hurney,
Secretary.

[FR Doc. 81-31095 Filed 10-27-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

Commission Organization; Change in Office of Science and Technology; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects an error made in the Order amending Part 0 of the Commission's Rules relating to Commission Organization to reflect a change in the Office of Science and Technology.

FOR FURTHER INFORMATION CONTACT: Charles Marietta, Office of the Executive Director, (202) 632-7513.

SUPPLEMENTARY INFORMATION:

Released: September 21, 1981.

The Order, FCC 81-409, in the above entitled matter, adopted August 28, 1981 and released September 2, 1981, and published on September 11, 1981 (46 FR 45342), the heading is corrected to change "FCC 81-409" to "FCC 81-403".

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-31274 Filed 10-27-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 2 and 97

Frequency Allocations and Radio Treaty Matters; Amateur Radio Service; Revision of Power Limitations in a Certain kHz Band and Amendment of Table of Frequency Allocations; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects an omission of the District of Columbia in the Appendix of an Order amending Rule §§ 2.106 and 97.61 on revising power limitations in certain kHz band on amending the Table of Frequency Allocations which appeared in the Federal Register on June 16, 1981 on page (46 FR) 31415.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stephanie M. Spornak, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

Released: October 15, 1981.

In the matter of amendment of rule §§ 97.61(a) and (b)(2) of the Amateur Radio Service rules to revise power limitations in the 1800/2000 kHz band; amendment of § 2.106, Table of Frequency Allocations, correction.

The Appendix to the Commission's Order, FCC 81-251, adopted May 21, 1981, and released June 1, 1981 (46 FR 31415; June 16, 1981) contained an error. On page 31416, Rule § 2.106, Footnote NG15, subparagraph (a)(4) and 97.61(b)(2) failed to include the District

of Columbia. As corrected herein, those entries in §§ 2.106 and 97.61 read as follows: Connecticut, Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Vermont.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-31266 Filed 10-27-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 15

[Gen. Docket No. 80-283; RM-2998; FCC 81-385]

Radio Frequency Devices; Provision for Operation of a Swept Frequency Automatic Vehicle Identification System Using Microwave Frequencies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Regulations proposed in this proceeding in June 1980 are adopted with minor modifications. These regulations permit the operation of automatic vehicle identification systems in the 2.9-4.1 MHz band subject to emission limits and certification procedures. This action taken in response to a petition filed by the Siemens Corporation. This will allow industry to choose a new technology regarding these systems.

EFFECTIVE DATE: November 23, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Michael D. Kennedy, Office of Science and Technology, Technical Planning Staff, Washington, D.C. 20554 (202) 632-7073, Rm. 7334.

SUPPLEMENTARY INFORMATION:

In the matter of the amendment of Part 15 to provide for the operation of a swept frequency automatic vehicle identification system using microwave frequencies; Gen. Docket No. 80-283; RM-2998.

Report and Order

Adopted: August 4, 1981.

Released: October 16, 1981.

By the Commission: Commissioner Jones absent.

Introduction

1. On November 10, 1977 the Siemens Corporation, by its attorney, filed a petition for rule making with the Commission.¹ Siemens requested

¹ Petition for Rule Making, RM-2998, filed by the Siemens Corporation of Iselin, New Jersey.

amendment of the Commission's Rules and Regulations, but did not propose specific rule changes, permitting the operation of an automatic railroad car identification system, the SICARID-ACI 500.² The proposed system utilizes a low power transmitter that sweeps, in frequency, through a microwave band and as such is implicitly prohibited by Part 15 of the Commission's Rules.

2. The petition was reported on Public Notice #1091 dated November 29, 1977. Siemens filed a supplement to the petition on December 19, 1977 supplying additional technical information including measurements indicating the electromagnetic compatibility of their system. Two comments were received on the petition. The Southern Railway System, in comments received May 3, 1978, urged the Commission to proceed with a rule making as petitioned by Siemens. In a letter dated November 6, 1978 Congressman Fred B. Rooney, Chairman of the House Subcommittee on Transportation and Commerce, expressed his concern with the utilization of freight cars by the railroad industry and encouraged the authorization of any new technology that could assist the industry in dealing with this problem.

3. The Commission staff analyzed the technical details of the Siemens petition and developed draft rules which would permit the use of the SICARID-ACI 500 system, as well as a generic class of automatic vehicle identification systems. The Commission adopted a Notice of Proposed Rule Making (NPRM) in this matter on June 11, 1980.³ While the Commission stated that it did not recommend the Siemens system over any other technology, it proposed to authorize its use so that this new technology could be made available to the railroad industry. The system appeared to be both compatible with the licensed services that operate in the same frequency band and to offer potential benefits to the railroad industry. As such, the authorization of the SICARID-ACI 500 system appeared to be in the public interest and the Commission proposed, and requested comment on, specific rules which would allow its use.

The SICARID-ACI 500 System

4. The system proposed by Siemens consists of two basic elements: (a) the car label, and (b) the interrogator. The

car label is a passive device consisting of microwave resonators. These resonators are encoded with information that indicates the identity of a particular railroad car and then the car label is mounted on the undercarriage of that car. This information may then be "read" by the interrogator as the car passes over it.

5. The interrogator consists of a number of subsystems that perform such functions as scanning the railroad cars, reading the information contained in the car label, processing this information, and storing it for retrieval. A chirp-type radar device mounted between the track rails is used to scan the cars. When triggered by a passing train, this device emits a radio signal whose frequency sweeps over the range of 2.9 to 4.1 GHz with a 250 microsecond period. The resonant circuits present in each car label uniquely alter the amplitude and phase of the transmitted signal. This modulated signal is then reflected back to the interrogator where it is converted to digital information identifying the railroad car.

6. The interrogator radiates a low power signal, 3.16 milliwatts effective isotropic radiated power (EIRP), in the vertical direction. Horizontal radiation is minimized by the use of a horn antenna which provides an attenuation perpendicular to the main direction of 18.5 dB in the E plane and 15.5 dB in the H plane. Moreover, the system is active only when a train is passing and the maximum radiation is directed toward the underside of the railroad car.

7. The frequency band in which the proposed system would operate is presently used by a number of services, both government and non-government. The Commission requested and received IRAC approval to use government frequencies for this purpose as IRAC felt that there was little probability of interference to government services based on the parameters set forth in the NPRM. The comments of non-government users were requested in the NPRM.

Discussion of Comments

8. Six parties filed comments on the NPRM. A summary of the comments is given in Appendix A of this item. Basically, the comments fall into two general categories: (a) those concerned with the need for the proposed system, and (b) those concerned about the interference potential of the proposed system.

9. A number of the commenters disagree with some of the claims that Siemens makes about its system. The General Electric Company (GE) markets automatic vehicle identification systems

presently under Part 15 of the Rules. GE argues that the stated accuracy of the Siemens system (99%) is not unique and that this accuracy can be achieved with other technologies operating in other frequency bands. Glenayre Electronics, which also markets an automatic vehicle identification system, states that the proposed system has serious drawbacks and is an extravagant use of valuable spectrum. The National Cable Television Association (NCTA) agrees with Glenayre's contention that Siemens is requesting an excessive amount of spectrum for a rather limited use.

10. The Commission feels that Siemens is in the best position to determine the amount of spectrum required by its system. Considering the amount of information to be transferred, Siemens' request for spectrum does not appear unreasonable. In any case, Siemens does not request dedicated spectrum, but only that they be allowed to share the proposed frequency band with other users. This would not preclude additional future uses of the same spectrum.

11. Certain characteristics of the Siemens technology appear to be consistent with the public interest and, therefore, we intend to authorize its operation and let potential users decide for themselves whether it is superior to other radio and non-radio systems. Thus, we do not endorse this technology over competing systems, but only wish to allow its introduction into the marketplace which can best make the final determination of its merits.

12. Many of the comments express concern over the proposed system's potential for interference with licensed services. GTE Service Corporation believes that the emission limitations specified in the proposed rules are sufficient to minimize the potential for interference. It suggests, however, that entities operating the proposed device notify local common carrier licensees to assist in the resolution of interference should it occur. NCTA argues that there is a very real potential for interference with satellite earth stations. It suggests that the Commission establish some minimum mileage separations between locations of the Siemens device and earth stations. The amount of separation would vary according to the orientation of the antennas. AT&T states its concern about the potential for interference, in this case to their microwave radio relay systems, but proposes a different approach to deal with it. They argue that the Commission should limit the device's radiation in the horizontal plane to a maximum of 425 $\mu\text{V}/\text{m}/\text{MHz}$ at 3 meters from the device. AT&T

² A brief description of the system is given in this item. A more detailed description may be found in the docket file (General 80-283) in the Petition for Rule Making and the Supplement to Petition for Rule Making.

³ Notice of Proposed Rule Making, General Docket 80-283, 45 FR 43442 (June 27, 1980).

indicates that if the Siemens system is installed so that its maximum radiation is directed vertically, then the attenuation of the antenna in the horizontal direction minimizes the probability of interference. It points out, however, that the Commission's proposed rules neither require that the device be oriented vertically nor specifically restrict radiation in the horizontal direction.

13. The Commission's main concern in this proceeding is the possibility of interference between the proposed system and licensed users operating in the same frequency range. It appears that radiation propagating in the horizontal plane poses the greatest interference threat to licensed users. The notification system proposed by GTE and the mileage separations proposed by NCTA are both cumbersome in that they require explicit coordination between users, something not readily applicable to unlicensed Part 15 devices. The limitations proposed by AT&T, however, would only require the manufacturer of the device to determine the required orientation of the device such that the emission limitation in the horizontal plane was not exceeded. Moreover, the analysis used by AT&T to determine the suggested limitation of $425 \mu\text{V}/\text{m}/\text{MHz}$ appears to be reasonable and Siemens offers no specific objection to this approach. Therefore, we have modified our rules to limit the radiation in the horizontal plane to a maximum of $400 \mu\text{V}/\text{m}/\text{MHz}$ at 3 meters from the device.⁴ This, plus the general condition in § 15.3 of the Rules requiring systems such as Siemens to cease operation if they cause interference, should satisfy the concerns expressed by AT&T, GTE, and NCTA. Of course, automatic vehicle identification systems would have to accept any interference they received from authorized radio services.

14. In the NPRM, the Commission suggested a measurement procedure which involves measuring the field strength of the device while it sweeps in frequency through its operating range. The Commission also requested, however, comments on an alternate procedure in which the sweep is stopped and the field strength of the resultant narrowband signal is measured. Siemens in its comments suggest that the latter approach be adopted by the Commission. They indicated that their system yields similar results regardless

of which procedure is employed and the second approach is an easier means of obtaining measurements. This may be true for the particular system proposed by Siemens. However, this is not necessarily true for all swept systems and depends on the specific technology used to sweep the system's oscillator. Indeed, the Commission has on file a petition concerning another device which employs a swept transmitter and the petitioner recommends that measurements be made with the sweep active.⁵ Therefore, we have decided not to change our proposed rules and will require that measurements be made while the sweep is active so that the measurements will reflect the potential use of the system.

15. The General Electric Company urges the Commission to permit verification of devices such as that manufactured by Siemens, rather than requiring certification as proposed in the NPRM. The Commission feels, however, that certification is appropriate for these devices. They will share a large portion of the spectrum with a number of different radio services.⁶ Although we feel the probability of interference is small, we have little practical experience with swept frequency, wideband transmitting systems. Requiring manufacturers to certify these devices will enable the Commission to maintain records of their use, which would be helpful in the event that interference problems occur.

16. In its reply comments, GE states that swept frequency systems such as the Siemens system should be restricted to railroad yards and centers. They offer, however, no argument in support of this statement. The Commission sees no reason to adopt this restriction, considering the low interference potential of these devices. Indeed, these systems may prove useful for applications in other industries. Therefore, we are adopting general rules not specifically limited to devices to be used with railroads.

17. In the rules attached to the NPRM, the Commission proposed that field strength measurements be made in an open field test site with a tuned dipole antenna. Siemens argues in their comments that these rules are unnecessarily restrictive. They propose that the Commission allow, in addition to the above, measurements to be made

in an anechoic chamber with a number of different antennas. The Commission agrees that the rules as originally proposed were too restrictive. Rather than list other options specifically, however, the Commission is requiring that measurements be made on an open field test site, or its equivalent, with a tuned dipole or other comparable antenna.

Conclusion

18. In view of the foregoing, the Commission finds that it is in the public interest to amend the Rules. Therefore, it is ordered, pursuant to the authority contained in Sections 4(j), 302 and 303(r) of the Communications Act of 1934, as amended, that effective November 23, 1981, Part 15 of the Commission's Rules and Regulations is amended as set forth in the attached Appendix B.

19. It is further ordered that this proceeding is terminated. For further information, contact Michael D. Kennedy, Office of Science and Technology, (202) 632-7073.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix A

Summary* of Comments and Reply Comments Filed on Response to Notice of Proposed Rulemaking in Docket 80-283, Proposing To Allow the Use of Swept Frequency, Vehicle Identification Devices in the Band 2.9-4.1 GHz

Comments

American Telephone and Telegraph Company. Swept frequency devices, such as proposed, should not be permitted in the 3.7-4.2 GHz band because of potential interference to a large number of terrestrial relay and earth station receivers. Normal Part 15 controls (e.g., making the devices secondary to licensed uses and restricting emission levels) are inadequate safeguards in this case due to present heavy use of the band, importance of that use, and the unpredictable locations at which these devices may be used. However, if 3.7-4.2 GHz is to be used for these devices, they should not be permitted to radiate in excess of $425 \mu\text{V}/\text{m}/\text{MHz}$ @ 3 meters in a horizontal direction, to adequately protect terrestrial relay receivers, the antennas of which also point in a

⁵ Petition for Rule Making, RM-2831, filed by Schlage Electronics on January 31, 1977.

⁶ The primary users of the band in which these devices will operate include both government and non-government maritime and aeronautical radionavigation, radiolocation, and common carrier point-to-point microwave and fixed satellite services.

⁴ We have modified the AT&T proposal to an even $400 \mu\text{V}/\text{m}/\text{MHz}$ since in practice these measurements cannot be readily made to three significant figure accuracy. We feel that the real impact of this change is negligible and that it makes the standard realistic.

*An attempt has been made here to paraphrase the relevant points raised in the comments as accurately as possible. However, readers should refer to the actual filings for precise interpretations.

horizontal direction. This limit equates to a power flux density of $-172\text{dBw/m}^2/4\text{kHz}$ at 1 mile from the device, which is 20dB less than the $-152\text{dBw/m}^2/4\text{kHz}$ signal which space stations in the fixed satellite service are permitted to deliver at the earth's surface in the horizontal plane to protect terrestrial relay receivers. This limit would be consistent with the CCIR opinion that interference from uncontrolled devices should be kept 20dB below that produced by controlled (allocated) services. The Siemens device, if pointed vertically, would exactly meet this proposed horizontal radiation. However it would be 17dB above the limit of pointed in a horizontal direction.

General Electric Company. Contrary to statements in the NPRM, operation at 2.9-4.1 GHz is not essential to achieve the necessary accuracy and performance in identifying railroad cars. Other systems using different technologies or in different bands, e.g., below the AM broadcast band, either are or can be comparable in performance to Siemens' without requiring a change in Part 15.

The proposed limit on power conducted back into the power line is overly restrictive, especially below 490 kHz. Recently authorized computing devices have no limit below 490kHz. Moreover, vehicle identification systems for railroad use would operate in an industrial environment and should be subject to different [implied higher] limits than devices used in residential areas. Rather than an NPRM to deal with this one narrowly defined use of spread spectrum type technology, an NOI should be issued to consider the interference issues more generally.

The LISN specification in proposed § 15.781(b) is too vague to assure repeatable tests. Also devices of the sort proposed should be subject to a verification procedure rather than certification since every customer will want a different system configuration. This is the compliance procedure authorized for computing devices and would likewise be appropriate here.

Glenayre Electronics, Inc. The proposal in the NPRM represents extravagant use of valuable spectrum. Even though specific effects of interference from the devices to navigation systems cannot be estimated, their presence in the band will no doubt deter future equipment development. Also, other technologies, consistent with present Part 15 rules, can provide equal or better vehicle identification service without the potential interference which these proposed devices may cause.

GTE Service Corporation. Consideration should be given to the use

of other bands for these devices so as to avoid potential interference to important long distance communication services. The proposed emission limits and secondary status for the devices are appropriate. However, in addition, device users should be required to notify licensees in this band when installing such devices, to facilitate enforcement in the event interference occurs.

National Cable Television Association. As a general comment, considering the interference potential of the proposed devices and their rather limited usefulness, the amount of spectrum proposed seems excessive. In any case such devices should not be authorized until their interference potential is carefully investigated.

Preliminary calculations by various companies involved in the supply of earth stations, including Compucom, Inc., whose calculations are attached to NCTA's comments, show that the proposed devices pose a significant interference threat to earth station receivers operated in this band by cable systems and others. A separation of from 0.055 to 1.04 miles would be required to maintain interference signal power in earth stations to an acceptable level, i.e., less than -144dBw/MHz 20% of the time. At a minimum, some coordination contour must be established if such devices are to be authorized.

Siemens Corporation. The Commission was correct in proposing to permit the Siemens' type system in the 2.9-4.1GHz band. The technology, already in use in Germany and South Africa, will greatly benefit American railroad operations through more accurate, and reliable car identification. A narrower bandwidth or fixed frequency system would suffer performance/cost degradation over the proposed system. The wider bandwidth enables economical transmission of the necessary information content for railroad car identification and avoids the need for separate transponder power supplies on the railroad cars which would be required if narrower band or fixed frequency systems were used.

Actual measurements and tests by Siemens verifies interference compatibility of the proposed system with other radio services. Low power, short transmission duration, vertical orientation and location in railroad yards make interference with licensed system unlikely.

With regard to specific proposals in the NPRM, the measurement procedure for compliance should involve stopping the frequency sweep and measuring the resulting CW signal. This is easier and less ambiguous than with sweep on, and

is the method accepted for these devices in other countries. The rules should also permit measurements to be made in anechoic chamber as well as in an open field site, and various measurement antennas which produce comparable results should be allowed in addition to the tuned dipole specified in the proposed rules.

Reply Comments

American Telephone and Telegraph Company. The proposal by Siemens, in its comments, that the radiation limit on the proposed device be specified as 100 millivolts per meter anywhere over the swept frequency range would, in effect, permit an energy density 30 dB stronger than the 3 millivolt per meter per MHz limit proposed by the Commission. Such higher spectral energy densities could cause unacceptable interference to terrestrial relay receivers. As explained and calculated in AT&T's initial comments, the emission limit needed to protect relay systems is $-172\text{dBw/m}^2/4\text{kHz}$ at 1 mile (or its approximate equivalent of $425\text{ }\mu\text{V/m/MHz}$ at 3 meters) in the horizontal plane. It is also noted that the device power level used in the interference calculation submitted by Siemens in its comments (e.i.r.p. of $\uparrow 15\text{dBm}$) would produce an emission in the horizontal direction which is 10dB above the limit proposed by AT&T.

General Electric Company. As stated in GE's Comments, advantages to the public cited by Siemens as justification for FCC action can be realized by other technologies, including GE's, without resorting to rulemaking. Restricting the proposed devices to locations in railroad yards and centers would be an appropriate rule. Horizontal as well as vertical operation of these devices should be assumed by the FCC, as railroads may want to identify loads as well as cars. The NCTA proposed mileage separation would also be an appropriate rule.

Siemens Corporation. Contrary to concerns expressed by certain parties filing comments, there is virtually no potential for interference to licensed services from the proposed vehicle identification system. The system's low power, intermittent operation, vertical orientation and probable locations of use at railroad yards make interference to terrestrial relay or earth station receivers highly unlikely. This is borne out by experience with the device in the Federal Republic of Germany, where it has been operating several years without interference, in the presence of a high concentration of terrestrial and earth station receivers.

Restriction of the proposed bandwidth to 2.9–3.7 GHz, suggested by AT&T, is not feasible because of the amount of information to be carried (13 digit car identification) and the practical constraints of the technology. The mileage separation and/or coordination suggested by NCTA is unnecessary since the proposed devices which will be operated in railroad yards and thus are unlikely to be located within the interference range of earth station receivers. Such a rule would also create a heavy record keeping burden on the Commission and users of these devices, which is not warranted by the small probability of interference. Should interference occur, it would be at a close range to the device, making identification and enforcement a simple matter. The secondary status and proposed emission limits provide sufficient administrative control over the proposed devices without the need for cumbersome mileage separation or coordination procedures.

Any general study of broadband spread spectrum users, as urged by GE, does not warrant postponement of the authorization of these specific devices. The record in this proceeding is adequate to decide the issues related to the proposed rules and any further delay would impose an unnecessary cost on potential users and the public.

Appendix B

PART 15—RADIO FREQUENCY DEVICES

Title 47 of the Code of Federal Regulations, Part 15, is amended as follows:

1. A new undesignated subheading and §§ 15.221–15.228 are added to Subpart E as follows:

Automatic Vehicle Identification Systems

- Sec.
15.221 General provisions.
15.224 Operations in the band 2.9 to 4.1 GHz.
15.225 Emission limitations.
15.226 Equipment authorization.
15.227 Identification of an automatic vehicle identification system.
15.228 Report of measurements.

Automatic Vehicle Identification Systems

§ 15.221 General provisions.

An automatic vehicle identification system may operate on any of the specific frequencies authorized under Subparts D and F of this Part, pursuant to the provisions therein. The provisions herein are restricted to systems which use swept frequency techniques for the purposes of automatically identifying transportation vehicles.

§ 15.224 Operations in the band 2.9 to 4.1 GHz.

Swept frequency operation of automatic vehicle identification systems must be confined within the 2.9 to 4.1 GHz frequency band subject to the requirements set out in §§ 15.225, 15.226, and 15.227.

§ 15.225 Emission limitations.

(a) The field strength anywhere within the frequency range swept by the signal shall not exceed 3000uV/m/MHz at 3 meters in any direction.

(b) An automatic vehicle identification system, when in its operating position, shall not produce a field strength greater than 400uV/m/MHz at 3 meters in any direction within ± 10 degrees of the horizontal plane.

(c) The field strength of radiated emissions outside the frequency range swept by the signal shall be limited to a maximum of 100uV/m/MHz at 3 meters, measured from 30 MHz to 20 GHz for the complete system.

(d) Power line conducted emission levels shall be less than 200 uV in the frequency range 450 kHz to 30 MHz for the complete system.

(e) A minimum frequency sweep range of at least 0.6 GHz shall be maintained.

(f) The minimum sweep repetition rate of the signal shall not be lower than 4000 sweeps per second.

(g) The maximum sweep repetition rate of the signal shall not exceed 50,000 sweeps per second.

(h) An automatic vehicle identification system shall employ a horn antenna or other comparable directional antenna for signal emission.

(i) Provision shall be made so that signal emission shall occur only when the vehicle to be identified is within the radiated field of the identification system.

§ 15.226 Equipment authorization.

(a) An automatic vehicle identification system shall be certificated in accordance with the procedures set forth in Subpart J of Part 2 of this Chapter.

(b) The measurement procedure to determine compliance with the regulations in this Subpart is set out in Subpart I of this Part.

§ 15.227 Identification of an automatic vehicle identification system.

An automatic vehicle identification system shall be identified pursuant to §§ 2.925 and 2.1045 of this Chapter. The FCC Identifier for such equipment will be validated by the grant of certification issued by the Commission. The nameplate or label shall bear the following statement:

This device complies with FCC Rules Part 15. Operation is subject to the following three conditions: (1) This device may not cause harmful interference, (2) this device must accept any interference that may be received, including interference that may cause undesired operation, and (3) during use this device (the antenna) may not be pointed within \pm * * degrees of the horizontal plane.

The blank space * * in condition (3) above, shall be filled in by the manufacturer and defines the angular pointing restriction necessary to meet the horizontal emission limit specified in § 15.225(b), as determined using the measurement procedures in Subpart I.

§ 15.228 Report of measurements.

(a) The report of measurements for an automatic vehicle identification system operating under § 15.224 shall be of the form required by § 15.143.

(b) In addition to information required by § 15.143, measurements of field strength per megahertz along with the IF (intermediate frequency) bandwidth of the spectrum analyzer or equivalent measuring receiver used shall be recorded in the report of measurements. The report shall also include the angular separation determined according to Section 15.776(c), the spectrum analyzer photograph discussed in § 15.777(c) and the results of the search called for in § 15.778(a).

2. A new Subpart I containing §§ 15.770–15.783 is added as follows:

Subpart I—Measurement Procedures

Automatic Vehicle Identification Systems

- Sec.
15.770 Reference.
15.772 Test Configuration.
15.774 Test Equipment.
15.776 Measurement of Field Strength (General).
15.777 Measurement of Field Strength Within the Swept Frequency Range.
15.778 Measurement of Emissions Outside the Swept Frequency Range.
15.781 Line Conducted Measurements.
15.783 Test Site.

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply sec. 301, 48 Stat. 1081; 47 U.S.C. 301.

Subpart I—Measurement Procedures

Automatic Vehicle Identification Systems

§ 15.770 Reference.

This measurement procedure shall apply to automatic vehicle identification systems provided for in Subpart E of this Part.

§ 15.772 Test configuration.

(a) The automatic vehicle identification system shall be tested in an open field test site or other test site which can be shown to provide comparable results.

(b) The device(s) under test shall be placed on a rotatable, nonconducting platform. The height of the platform above ground shall be 45 centimeters.

§ 15.774 Test equipment.

A spectrum analyzer or field strength measuring instrument shall be used to measure field strength at the levels specified. Radiated emissions shall be measured with a tuned dipole or other comparable linearly polarized antenna in the frequency range 30 MHz to 1 GHz. For measurements above 1 GHz, a broadband linearly polarized horn antenna shall be used.

§ 15.776 Measurement of field strength (General).

(a) All field strength levels from the device under test shall be measured at a distance of 3 meters.

(b) The automatic vehicle identification system, along with its antenna, shall be positioned so as to cause the largest field strength reading when field intensity measurements are taken.

(c) The angular separation between the direction at which maximum field strength occurs and the direction at which the field strength is reduced to 400 $\mu\text{V}/\text{m}/\text{MHz}$ at 3 meters shall be determined for purposes of the labeling requirement is § 15.227.

(d) The height of the measuring antenna shall be varied from 1 to 4 meters and vertical or horizontal antenna polarization shall be selected in order to obtain a maximum reading of field strength during measurements.

(e) The IF (intermediate frequency) bandwidth of the field strength measuring instrument shall be set as wide as the measurement instrument has available but no less than 300 kHz. The scan rate of the instrument shall be 10 milliseconds per division or slower.

§ 15.777 Measurement of field strength within the swept frequency range.

(a) The field strength within the frequency range swept by the signal shall be measured with a spectrum analyzer or a field strength meter calibrated for broadband measurements.

Note.—For information on broadband measurements refer to publications on the subject available from various test equipment manufacturers.

(b) Measurement shall take place at the frequency within the swept frequency band that yields the greatest

value of field strength per megahertz. The measured level shall be corrected for any desensitization in the reading due to the IF filter response characteristics of the measuring instrument to yield the full peak signal level. The maximum field strength per megahertz is then computed from the full signal level by accounting for spectral distribution and antenna factor.

(c) A photograph shall be taken of the spectrum analyzer display showing the entire swept frequency signal. The photograph shall show a calibrated scale for the vertical and horizontal axes. In addition, the photograph shall be labelled to indicate spectrum analyzer settings that were used.

§ 15.778 Measurement of emissions outside the swept frequency range.

(a) A frequency search for spurious, harmonic and sideband emissions shall be made from 30 MHz to 20 GHz, exclusive of the swept frequency band, with the measuring equipment as close as possible to the unit under test.

(b) A calibrated spectrum analyzer capable of detecting signals below the specified radiated emission level and a broadband antenna shall be used for this search. A low noise preamplifier may be used for improved sensitivity.

(c) The field strength of any emission detected in the search shall be measured at a distance of three meters.

(d) Field strength shall be measured per unit bandwidth ($\mu\text{V}/\text{m}/\text{MHz}$) for all emissions in accordance with § 15.777.

§ 15.781 Line conducted measurements.

(a) Line conducted levels shall be measured with the automatic identification system connected to the power line through a line impedance stabilization network (LISN). The LISN provides a standard radio frequency impedance to the device to be tested and couples conducted RF energy to the measuring device. The LISN must be inserted in series with each current carrying conductor (including the neutral) in the line supplying power to the automatic identification device.

(b) Tests shall be performed in accordance with the procedure in Part 15 Appendix A, paragraphs 5.0 thru 5.6. The measurements shall be made over the range 450 kHz to 30 MHz.

§ 15.783 Test site.

Field strength measurements shall be taken on an open field test site, unless it is shown in the application for certification that an alternative site is equivalent to an open field site for the required measurements. A description of the test facility must be submitted in accordance with § 15.38.

Note.—A rulemaking proceeding in Docket 21371 proposes to replace § 15.38 with a new section in Part 2 of the FCC Rules. The new section will include revised and expanded requirements including a measurement of the site attenuation of an open field test site. The method of making site attenuation measurements is also covered in Docket 21371.

[FR Doc. 81-30990 Filed 10-27-81; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR 652****Atlantic Surf Clam and Ocean Quahog Fisheries**

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule and request for comments.

SUMMARY: NOAA issues an emergency interim rule to implement certain provisions of Amendment 3 to the Fishery Management Plan for Atlantic Surf Clams and Ocean Quahogs (FMP). The amendment (1) provides a flexible procedure which allows the Secretary to specify annual quotas from within a prescribed range; (2) sets a 5½ inch size limit for surf clams in the mid-Atlantic area; (3) extends the portion of the year during which make-up periods can be claimed for fishing time lost due to bad weather to include the month of November; (4) allows vessel operators to determine themselves if weather conditions are severe enough to claim a make-up period; (5) extends the surf clam fishing week to include Sunday; (6) provides increased opportunity for vessel operators to change their surf clam fishing schedules; and (7) eliminates the fee for issuance of a replacement vessel permit. The intended effect of this amendment is to increase the operational flexibility of fishermen and other small business entities affected by the management of this fishery. To provide opportunity for the public to comment on all provisions of Amendment 3, NOAA intends to publish notice of proposed rulemaking for Amendment 3 as soon as possible. NOAA also uses a request for comments on this rule, which may be used in developing the final rule.

DATES: These regulations will be effective from October 24, 1981 through December 8, 1981. Comments must be received by December 8, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930-3097, or Frank Grice, Chief, Fisheries Management Division. Telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Section 305(e)(2) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) permits the Secretary of Commerce (Secretary) upon finding that an emergency exists involving any fishery resource, to promulgate emergency regulations to amend any regulations which implement an existing fishery management plan. Such regulations remain in effect for 45 days. They may be repromulgated for an additional 45-day period, if necessary. The Assistant Administrator for Fisheries, NOAA, acting on behalf of the Secretary, has determined that an emergency exists with respect to the surf clam fishery. In response to this determination, NOAA issues an emergency rule which makes effective certain provisions of Amendment 3 to the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries (FMP). These provisions are as follows.

Optimum Yield for the Fisheries

The original FMP established annual levels of optimum yield (OY), U.S. capacity to harvest and process, and total allowable level of foreign fishing (TALFF). The amounts were fixed in the FMP and could not be changed without a plan amendment. This amendment establishes a procedure which will allow the Secretary, in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas on an annual basis from within a range which has been identified as OY. The Regional Director will consider stock assessments, catch records, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, incoming recruitment, projected effort and catches, and areas likely to be reopened to fishing in selecting a quota from the OY range. The quotas will be adopted after the public has an opportunity to review and comment on the proposed quotas.

The framework procedure is desirable for several reasons. The surf clam resource in the mid-Atlantic is beginning to recover and there is reason to believe that quotas could be increased by substantial, but as yet indefinite, amounts over the next several years. Knowledge about the abundance,

distribution, and life history of the surf clam resource in New England and the entire ocean quahog resource continues to increase and the additional information received may mandate changes in quotas for those resources. A procedure allowing annual adjustments to the quotas will ensure that the basic management measure, harvest allocations, will be responsive to the needs of the resource and industry. The OY ranges from which quotas may be selected are carefully defined for each resource, taking into account estimates of maximum sustainable yield, minimum resource requirements of the industry, and domestic capacity to harvest and process the resource.

The OY range for each resource management unit in meat weight is as follows:

Resource unit	Low limit (lbs)	High limit (lbs)
Mid-Atlantic surf clam	30,000,000	50,000,000
New England surf clam	425,000	1,700,000
Ocean quahog	40,000,000	60,000,000

Immediate implementation of the flexible OY provision is needed to allow the procedure for determining OY, approved under Amendment 3, to be applied so that annual quotas can be determined for 1982 before the start of the 1982 fishing year. These procedures may also be applied in the current fishing year. Timely determination of OY is particularly important in view of the reliance industry must place on annual quotas when assuming financial and other contractual obligations.

Establishing a 5½ Inch Minimum Surf Clam Size

The size limit allows for increased spawning opportunity for surf clams, which may increase recruitment into the fishery in the future. The size limit also prevents the harvest of large quantities of small surf clams which are less desirable in terms of their yield and the type of product which can be produced from them.

The industry recognizes that smaller surf clams have a lower yield and value than do clams of 5½ inches or greater length. However, no individual operator can unilaterally stop taking small clams without possibly putting himself at a competitive disadvantage. A measure preventing the harvest of small surf clams allows each operator to behave in a way which will tend to optimize the use of the resource. Industry has stated that this is a situation where management is crucial to help it do what is clearly in its own best collective interest.

On July 14, 1981, emergency regulations establishing a 5½ inch minimum surf clam size were approved. Emergency regulations implementing the size limit were effective July 26, 1981 (46 FR 37051, effective date extended at 46 FR 44988.) The size limit was imposed at the urgent request of the Council and industry. Because the size limit is being imposed again as part of this emergency implementation of measures in Amendment 3, it is expected to continue in effect for another 45 days.

Other Changes

The amendment also: (1) Extends the portion of the year during which make-up periods can be claimed for fishing time lost due to bad weather to the months of November through April; (2) allows vessel operators to determine themselves if weather conditions are severe enough to claim a make-up period; (3) extends the surf clam fishing week to include Sunday; (4) provides increased opportunity for vessel operators to change their surf clam fishing schedules; (5) exempts personal-use fishermen from the licensing requirements of the fishery management plan; and (6) eliminates the fee for issuance of a replacement vessel permit. Parts of these provisions contain information collection requests which have been approved under OMB 0648-0097. Each of these modifications is intended to, increase the operational flexibility of fishermen and other small business entities under the management program and reduce the burden of management on the public affected directly and indirectly by the FMP.

Classification

The amendment basically continues the resource conservation program initiated by the FMP. A supplemental environmental impact statement prepared for the amendment (46 FR 23299) found that the management program will provide for the long term viability of the resource while minimizing negative impacts on the surf clam fishery and permitting full development of the ocean quahog fishery.

The Administrator, NOAA, has determined that this action is not a major rule under E.O. 12291 and does not require a regulatory impact analysis. The Federal paperwork burden, as defined by 44 U.S.C. 3501 et seq., is not increased for any level of business. Requirements of the Regulatory Flexibility Act are not applicable because the emergency rule has not been published as a notice of proposed rulemaking.

Revised §§ 652.21 and 652.22 are printed in their entirety for clarity.

Dated: October 23, 1981.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

For the reasons set out in the preamble, 50 CFR Part 652 is amended as follows:

1. The authority citation for Part 652 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 652.4 is amended by revising paragraphs (a)(3) and (d) to read as follows:

§ 652.4 Permits.

(a) * * *

(3) Vessels taking surf clams or ocean quahogs for personal use are exempt from this section.

* * * * *

(d) *Issuance.* The Regional Director shall issue a permit to each eligible vessel for which an application is submitted. The eligibility of a vessel to fish for surf clams will be determined consistent with this section. There will be no fee for the permit.

* * * * *

3. In 652.7, paragraph (j) is added to read as follows:

§ 652.7 Prohibitions.

* * * * *

(j) No person in the Mid-Atlantic Area shall have in his possession surf clams taken in violation of the size limit contained at § 652.25.

4. Section 652.21 is revised to read as follows:

§ 652.21 Catch quotas.

(a) *Surf clams: Mid-Atlantic Area.* The amount of surf clams which may be caught in the Mid-Atlantic Area by fishing vessels subject to these regulations will be specified annually between 1,800,000 and 2,900,000 bushels. This annual quota will be divided into equal quarterly quotas, the quarters being January 1–March 31, April 1–June 30, July 1–September 30, and October 1–December 31. Each fishing quarter will begin on the first Sunday of the new calendar quarter.

(1) *Establishing Quotas.* Prior to the beginning of each year, the Regional Director will prepare a written report, based on the latest available stock assessment report prepared by the National Marine Fisheries Service, data reported by harvesters and processors under these regulations, and other

relevant data. The report will include consideration of:

(i) Exploitable biomass and spawning biomass relative to optimum yield;

(ii) Fishing mortality rates relative to optimum yield;

(iii) Magnitude of incoming recruitment;

(iv) Projected effort and corresponding catches; and

(v) Status of areas previously closed to surf clam fishing that are to be opened during the year and areas likely to be closed to fishing during the year.

(2) *Public Review.* Based on the data presented in the report above, the Secretary will propose an annual surf clam quota and will publish it in the *Federal Register*. Comments on the proposed annual quotas may be submitted to the Regional Director within 30 days after publication. The Secretary will consider all comments, determine an appropriate annual quota, and publish the annual quota in the *Federal Register*.

(3) *Adjustments.* If the actual catch of surf clams in any one quarter falls more than 5,000 bushels short of the specified quarterly quota the Regional Director will add the amount of the shortfall to the succeeding quarterly quotas. If the actual catch of surf clams in any quarter exceeds the specified quarterly quota, the Regional Director will subtract the amount of the excess from the succeeding quarterly quota.

(4) *Notice.* The Secretary will publish a notice in the *Federal Register* whenever an adjustment is made to the quarterly quota for surf clams. The Regional Director will send notice of any adjustment of the quarterly quota to each surf clam processor and to each licensed surf clam vessel operator.

(b) *Surf Clams: New England Area.* The amount of surf clams which may be caught in the New England Area by fishing vessels subject to these regulations will be specified annually between 25,000 and 100,000 bushels, using the procedures and criteria set forth in § 652.21(a).

(c) *Ocean Quahogs.* The amount of ocean quahogs which may be caught by fishing vessels subject to these regulations will be specified annually between 4,000,000 and 6,000,000 bushels, using the procedures and criteria set forth in § 652.21(a). If necessary, the Regional Director may establish quarterly quotas for ocean quahogs, which will be based on historical fishing patterns. In that event, the Secretary will publish notice of such quarterly quotas in the *Federal Register*. In the event that the Regional Director establishes quarterly quotas for ocean quahogs, if the actual catch of ocean

quahogs falls more than 5,000 bushels short of the specified quarterly quota, he will add the amount of the shortfall to the succeeding quarterly quotas. If the actual catch of ocean quahogs in any quarter exceeds the specified quarterly quota, the Regional Director will subtract the amount of the excess from the succeeding quarterly quotas.

(d) *Closure.* If the Regional Director determines (based on logbook reports, processor reports, vessel inspections, or other information), that the quota for surf clams or ocean quahogs for any time period indicated in this section will be exceeded, the Secretary shall publish a notice in the *Federal Register* stating the determination and, stating a date and time for closure of the surf clam or ocean quahog fishery for the remainder of the time period. The Regional Director will send notice of the action to each surf clam or ocean quahog processor and to each surf clam or ocean quahog vessel owner or operator.

(e) *Presumption.* The presence of surf clams or ocean quahogs aboard any fishing vessel or the presence of any part of the vessel's gear in the water more than 12 hours after a fishery closure announcement becomes effective under paragraph (d) of the section shall be prima facie evidence that such clams or quahogs were taken in violation of these regulations.

5. Section 652.22 is revised to read as follows:

§ 652.22 Effort restrictions.

(a) *Surf clams. Mid-Atlantic Area.* (1) Fishing for surf clams will be allowed only during the period beginning 0001 hours Sunday and ending 1800 hours Thursday.

(2) The Regional Director will notify each owner or operator of a fishing vessel engaged in the surf clam fishery in the Mid-Atlantic Area concerning the allowable combinations of fishing periods for varying levels of allowable weekly fishing time. The vessel owner or operator shall send the Regional Director written notice of the owner or operator's selection of allowable surf clam fishing periods for that vessel. All selections must be received by the Regional Director not later than 15 days prior to the time period for which the selection is to be effective. The Regional Director will send a letter of authorization to each owner or operator, stating the periods during which the vessel is authorized to fish for surf clams. The letter of authorization shall be kept aboard the vessel at all times. Fishing shall be conducted only during the times and under those conditions authorized by the Regional Director in

the letter of authorization. Fishing for any part of an authorized period will be counted as one day of fishing. In this paragraph, "fishing" means the actual or attempted catching of fish, but not activities in preparation for fishing, such as traveling to or from the fishing grounds. The presence of a vessel's fishing gear in the water at a time which is more than one-half hour before the beginning, or one-half hour after the end, of the vessel's authorized fishing period shall be prima facie evidence that the vessel is fishing in violation of these regulations.

(3) At the beginning of each quarter the Secretary will publish in the Federal Register the allowable fishing times (hours per week, hours per month, or hours per quarter) so that fishing for surf clams may be conducted throughout the entire quarter with the minimum number of changes to fishing times. All fishing periods will end at 1800 hours.

(4) If, on review of the available information and public comment, including current and expected levels of fishing effort, the Regional Director determines during any quarter that the quarterly quota for surf clams [as adjusted under § 652.21(a)(3)] will be exceeded, allowable surf clam fishing time may be reduced to avoid prolonged closure of the fishery.

(5) If, on review of the available information and public comment, including current and expected levels of fishing effort, the Regional Director determines during any quarter that the quarterly quota of surf clams [as adjusted under § 652.21(a)(3)] will not be harvested, and that the catch rate has not diminished as a result of a decline in abundance of stocks of surf clams, allowable surf clam fishing time may be increased to facilitate the harvest of the full quarterly quota.

(6) The Secretary will publish a notice in the Federal Register of any reduction or increase in hours during which fishing for surf clams is permitted. The reduction or increase may take effect immediately upon publication in the Federal Register. The Regional Director will send notice of the change to each surf clam or ocean quahog processor in the fishery and to each surf clam or ocean quahog vessel owner or operator.

(7) During November and December, fishermen may claim a make-up period, if in the opinion of the vessel operator,

weather or sea conditions would prevent effective fishing or endanger the vessel or crew.

(i) To claim the make-up period, the vessel owner or operator must contact the NMFS before the scheduled authorized fishing period starts. The Regional Director will notify each vessel owner or operator in writing as to the procedure to follow in contacting NMFS.

(ii) The make-up period will be equal in length to the scheduled authorized fishing period. The make-up period will begin 24 hours after the scheduled beginning of said period, except that if the make-up period could not then be completed before the end of the fishing week on Thursday at 1800 hours, then the make-up period will begin on the following Sunday.

(iii) Before using this make-up provision, each vessel owner must notify the Regional Director, in writing, of the port from which the vessel fishes. If that port changes, the vessel owner shall promptly notify the Regional Director of the change, in writing.

(iv) Any vessel which uses a make-up period without claiming it under this procedure, or which fishes under a scheduled authorized fishing period for which it has claimed a make-up period, shall be liable to forfeit its use of the make-up provision in the future; the vessel and its owner or operator also may be subject to other penalties as prescribed in § 652.8 of these regulations.

(8) *Presumption.* The presence of surf clams aboard any fishing vessel engaged in the surf clam fishery, or the presence of any part of a vessel's gear in the water, more than 12 hours after a weekly closure occurs under this paragraph (a), shall be prima facie evidence that such surf clams were taken in violation of these regulations.

(b) *Surf clams. New England Area.* (1) Fishing for surf clams will be allowed seven days per week.

(2) When 50 percent of the quota of surf clams established under § 652.21(b) for the New England Area has been caught, the Regional Director will, on review of the available information and public comment, determine whether the total catch of surf clams during the remainder of the year will exceed the annual quota. If the Regional Director determines that the quota probably will be exceeded, he may reduce the number

of days per week, or establish authorized periods, during which fishing for surf clams is allowed.

(3) The Secretary will publish a notice in the Federal Register of any reduction in days for surf clam fishing. The reduction may be effective immediately upon publication in the Federal Register. The Regional Director will also send notice of any reduction to each surf clam or ocean quahog processor in the fishery and to each surf clam or ocean quahog vessel owner or operator.

(c) *Ocean Quahogs.* (1) Fishing for ocean quahogs will be allowed initially seven days per week.

(2) When 50 percent of the quota of ocean quahogs for any time period indicated in § 652.21(c) has been caught, the Regional Director will, on review of the available information and public comment, determine whether the total catch of ocean quahogs during the applicable time period will exceed the quota for that time period. If the Regional Director determines that the quota will be exceeded, he may reduce the number of days during which fishing for ocean quahogs is allowed.

(3) The Secretary will publish a notice in the Federal Register of any reduction in days for ocean quahog fishing. The reduction may be effective immediately upon publication in the Federal Register. The Regional Director will also send notice of any reduction to each surf clam or ocean quahog processor in the fishery and to each surf clam or ocean quahog vessel owner or operator.

6. Section 652.25 is added to read as follows:

§ 652.25 Size restrictions.

(a) A minimum size limit for surf clams of 5½ inches in length is imposed on the Mid-Atlantic Area fishery with the following exceptions:

(1) Ten percent of all full cages in possession, to the nearest whole cage (or at least one cage), can be withheld by the operator from inspection by the authorized officer; and

(2) As many as 240 surf clams in any full cage inspected by the authorized officer may be less than 5½ inches in length.

(b) Length is measured at the longest dimension of the surf clam.

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Proposed Rules

Federal Register

Vol. 46, No. 208

Wednesday, October 28, 1981

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

Importation of Certain Articles of *Hyacinthus* spp.

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed Rule and Notice of Public Hearing.

SUMMARY: This document proposes to amend the "Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" regulations to allow the importation into the United States of articles of *Hyacinthus* spp. (hyacinth) established in certain growing media if imported in accordance with specified criteria designed to prevent the introduction into the United States of injurious plant diseases, injurious insect pests, and other plant pests. This appears to be warranted in order to delete unnecessary requirements concerning the importation of such articles.

DATES: Written comments concerning the proposed rule must be received on or before November 27, 1981. A public hearing concerning the proposed rule will be held on November 12, 1981.

ADDRESSES: Written comments concerning the proposed rule should be submitted to Thomas J. Lanier, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 635 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. A public hearing concerning the proposed rule will be held at The Quality Inn, Terrapin Room, 7200 Baltimore Avenue, College Park, MD 20740.

FOR FURTHER INFORMATION CONTACT:

Frank Cooper, Staff Officer, Regulatory Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 635 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8248.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Regulatory Flexibility Act

This proposed rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule would have an annual effect on the economy of less than \$100,000; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Currently, articles of *Hyacinthus* spp. (hyacinth) are not allowed to be imported in growing media unless they are from Canada (except certain areas in Canada), are established in a translucent or transparent tissue culture medium, or are imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions. The proposed rule, if adopted, would allow the importation of articles of *Hyacinthus* spp. (hyacinth) established in unused peat, sphagnum moss, vermiculite, or in certain synthetic material if imported in accordance with specified criteria designed to prevent the introduction into the United States of injurious plant diseases, injurious insect pests, and other plant pests.

Plants grown from bulbs of *Hyacinthus* spp. compete on the market with established flowering plants that may be purchased at retail stores. There are many hundreds of millions of such flowering plants offered for sale in the United States annually. However, based on information submitted by an industry representative, it is estimated that if the proposal were adopted, not more than 20,000 bulbs of *Hyacinthus* spp. would

be imported the first year in growing media in accordance with the provisions in the proposal, and that in future years the number would rise or decrease depending on market conditions.

Bulbs of *Hyacinthus* spp. are currently imported free of growing media and grown into plants in the United States by approximately 1,000 businesses. Many thousands of businesses sell such plants at retail. The proposed rule, if adopted, would not preclude these businesses from continuing to sell such plants. Further, it appears that growing or selling plants of *Hyacinthus* spp. is not the primary activity of any business in the United States.

Alternatives were considered in connection with the proposal. Consideration was given concerning whether (1) to allow the importation of articles of *Hyacinthus* spp. in the growing media specified in the proposed rule without the imposition of restrictions set forth in the proposed rule, (2) to make no changes in the regulations concerning the importation of articles of *Hyacinthus* spp. established in growing media, or (3) to allow the importation of articles of *Hyacinthus* spp. established in growing media specified in the proposed rule in accordance with restrictions set forth in the proposed rule. Alternative (1) is not proposed because it appears that articles of *Hyacinthus* spp. imported in such growing media without meeting the requirements set forth in the proposal would present a significant risk of introducing any of a large number of injurious plant diseases, injurious insect pests, and other plant pests. Alternative (2) is not proposed because it appears that it is unnecessarily restrictive. Alternative (3) is proposed because it appears that articles of *Hyacinthus* spp. can be imported under the proposed provisions without a significant risk of introducing such diseases or pests. Further, it appears that there is no feasible alternative to consider in compliance with the requirement that agencies choose the alternative that maximizes net benefits to society at the lowest net cost.

Dr. H. C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that, under the circumstances explained above, it is anticipated that the proposed rule, if adopted, would not have a significant

economic impact on a substantial number of small entities.

Public hearing

A representative of the Animal and Plant Health Inspection Service will preside at the hearing. Any interested person may appear and be heard in person, by attorney, or by other representative.

The hearing will begin at 10 a.m. and is scheduled to end at 5 p.m., local time. However, the hearing may be terminated at any time after it begins if all of those persons desiring an opportunity to speak have been heard. Persons who wish to speak are requested to register with the presiding officer prior to the hearing. The prehearing registration will be conducted at the location of the hearing from 9 a.m. to 10 a.m. Those registered persons will be heard in the order of their registration. However, any other person who wishes to speak at the hearing will be afforded such opportunity after the registered persons have been heard. It is requested that duplicate copies of any written statements that are presented be provided to the presiding officer at the hearing.

If the number of preregistered persons and other participants in attendance at the hearing warrants it, the presiding officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

Comments

Written comments are also solicited on or before November 27, 1981. It is the general policy of the Department to provide a 60 day comment period for proposed rules unless a shorter period is warranted. However, in this instance, it appears that there is no longer a need for imposing certain restrictions on the importation of articles of *Hyacinthus* spp. and that prompt action should be taken to delete the unnecessary restrictions. Therefore, a shorter comment period of 30 days, in addition to the public hearing, appears to be warranted and adequate under the circumstances.

Background

The "Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" regulations (referred to below as the regulations) are contained in 7 CFR 319.37 through 319.37-14 and impose prohibitions and restrictions on the importation into the United States of certain classes of nursery stock, and certain other classes of plants, roots, bulbs, seeds, and other plant products.

Under the regulations, articles designated as prohibited articles are prohibited from being imported into the United States unless imported by the U.S. Department of Agriculture for experimental or scientific purposes under certain conditions. Articles designated as restricted articles are allowed to be imported by any importer subject to restrictions under the regulations. Currently, restricted plants from foreign countries and localities are not allowed to be imported if established in any growing media unless, among other things, they are from Canada (except certain areas in Canada); they have been grown solely in agar or in other transparent or translucent tissue culture medium; they are epiphytic plants established solely on tree fern slabs, coconut husks, or coconut fiber; or they are articles of Polypodiophyta (=Filicales), (*Saintpaulia* spp. (African violet), *Gloxinia* spp. (Gloxinia), *Begonia* spp. (begonia), or *Peperomia* spp. (peperomia) and have been imported in accordance with certain conditions specified below. These restrictions on the importation of plants have been imposed because, in general, if plants were to be imported in their growing media, there would be a substantial risk of introducing any of a large number of injurious plant diseases, injurious insect pests, and other plant pests which could not be detected by inspection and could not be eliminated without destruction of the plants.

Articles of *Hyacinthus* spp. are designated as restricted articles and are not allowed to be imported established in growing media unless, among other things, they are from Canada (except certain areas in Canada), or they are established in a translucent or transparent tissue culture medium. A prospective importer of articles of *Hyacinthus* spp. recently petitioned the Department to allow the importation of articles of *Hyacinthus* spp. established in peat, sphagnum moss, vermiculite, or certain synthetic material in accordance with conditions similar to those specified for articles of Polypodiophyta (=Filicales) (ferns), *Saintpaulia* spp. (African violet), *Gloxinia* spp. (Gloxinia), *Begonia* spp. (begonia), and *Peperomia* spp. (peperomia). Section 319.37-8(e) of the regulations provides detailed conditions for the importation of these five categories of articles in certain growing media. In this connection §319.37-8(e) of the regulations which was published in the Federal Register on May 13, 1980 (45 FR 31572-31597), provides the following detailed conditions for the importation of such articles:

"(e) A restricted article of Polypodiophyta (=Filicales)(ferns), *Saintpaulia* spp. (African violet), *Gloxinia* spp. (Gloxinia), *Begonia* spp. (begonia), and *Peperomia* spp. (peperomia) may be imported established in unused peat, sphagnum moss, or vermiculite growing media, or in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, or ureaformaldehyde:

(1) If there is a written agreement between the Plant Protection and Quarantine Programs and the plant protection service of the country where the article is grown in which the plant protection service of the country where the article is grown agrees to implement a program in compliance with the provisions of this section;

(2) If there is a written agreement between the grower of the article and the plant protection service of the country in which the article is grown wherein the grower agrees to comply with the provisions of this section, wherein the grower agrees to allow an inspector access to the growing facility as necessary to monitor compliance with the provisions of this section, and wherein the grower agrees to allow representatives of the plant protection service of the country in which the article is grown access to the growing facility as necessary to make determinations concerning compliance with the provisions of this section;

(3) If:

(i) Grown throughout its growing period only in a greenhouse with insect-proof screening (a minimum of 16 mesh per inch) on all vents and with all entryways equipped with automatic closing doors;

(ii) Grown only in a greenhouse unit solely used for articles grown under all the criteria specified in this paragraph (e);

(iii) Grown only on a raised bench supported by legs and raised at least 460 millimeters (approximately 18 inches) off the floor;

(iv) Grown only in unused peat, sphagnum moss, or vermiculite growing media; or grown only in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, ureaformaldehyde;

(v) Watered only with clean rainwater that has been pasteurized, with clean well water, or with potable water;

(vi) Grown in a greenhouse free of sand, soil, or earth;

(vii) Grown only in a greenhouse where strict sanitary procedures are always practiced, i.e., cleaning and disinfection of floors, benches and tools, the application of measures to protect against any injurious plant diseases, injurious insect pests, and other plant pests; and

(viii) Stored only in areas found free of sand, soil, earth, injurious plant diseases, injurious insect pests, and other plant pests.

(4) If appropriate measures have been taken to assure that the article is to be stored, packaged, and shipped free of injurious plant diseases, injurious insect pests, and other plant pests;

(5) If accompanied by a phytosanitary certificate of inspection containing an accurate additional declaration from the plant protection service of the country in which grown that the article meets conditions of growing, storing, and shipping in compliance with 7 CFR 319.37-8(e); and

(6) If the accompanying phytosanitary certificate of inspection is endorsed by a Plant Protection and Quarantine Programs inspector in the country of origin or at the time of offer for importation, representing a finding based on monitoring inspections that the conditions listed above are being met.

These criteria were formulated based on an experimental program involving the five categories of articles specified above. As explained in the document of May 13, 1980 (45 FR 31582), it was determined that additional articles should not be added to this list without testing of the articles in question in order to assure that the articles could be imported in growing media without a significant risk of introducing such diseases or pests.

The document of May 13, 1980 (45 FR 31583), further provided that the Department welcomes any additional information that might be presented concerning whether additional categories of articles should be allowed to be imported in such growing media. Also, it was stated that if it appears, based on information submitted to the Department, that additional articles, under conditions specified in § 319.37-8(e) of the final rule or under similar conditions, could be imported in such growing media without presenting a significant risk of introducing injurious plant diseases, injurious insect pests, and other plant pests, consideration would be given concerning whether to amend the final rule in this regard.

As noted above, the Department has been petitioned to allow the importation of articles of *Hyacinthus* spp. in

accordance with conditions similar to those set forth above for the five categories of articles. These conditions were tested under an experimental program conducted in 1974 and were found adequate to protect against the introduction of such diseases and pests.

The conditions for the experimental program in 1974 relating to the production of articles of *Hyacinthus* spp. were the same as the conditions specified for the five categories of articles except of the following differences. Bulbs of *Hyacinthus* spp. were required to be inspected and found free of diseases and pests immediately prior to the growing period by the plant protection service of the country in which the article was to be grown. Also, the articles were required to be grown in a coldroom with temperatures not exceeding 6° C (43° F) within an enclosed building instead of in a greenhouse with insect proof screening and with entryways equipped with automatic closing doors. In addition, the articles were not required to be grown on raised benches. Further, there were no formal provisions requiring written agreements involving the grower or the plant protection service of the country where the articles are grown, as set forth above in subparagraphs (1) and (2) of § 319.37-8(e).

Under the experimental program it was determined that it was necessary that the bulbs of *Hyacinthus* spp. be inspected and found free of diseases and pests immediately prior to the growing period by the plant protection service of the country in which the article was to be grown. This was based on the conclusion that some diseases and pests which could be detected prior to establishment of the bulbs in growing media would not be detectable after the bulbs were planted in the growing media.

Under the experimental program the articles of *Hyacinthus* spp. were grown in a coldroom with temperatures not exceeding 6° C (43° F) to greatly reduce the development of the top of the plant while allowing root development, and thereby to produce the type of plant desired for importation. This was for the purpose of allowing these plants to be grown to maturity in the United States. It appears that growing the articles of *Hyacinthus* spp. in a coldroom would eliminate the need to grow them in a greenhouse with insect proof screening and with entryways equipped with automatic closing doors, and would eliminate the need to grow them on raised benches. These provisions concerning greenhouses and raised benches were imposed with respect to the five categories of plants to reduce

the risk of diseases and pests attacking the plants. Based on the experimental testing in 1974, it appears that such coldroom conditions have at least an equivalent effect for preventing articles of *Hyacinthus* spp. from becoming infected or infested with diseases or pests. This is because the cold conditions help prevent insects and diseases from attacking the articles of *Hyacinthus* spp.

As noted above, the experimental program did not contain formal provisions requiring written agreements between Plant Protection and Quarantine and the plant protection service of the country where the article is grown, and between the grower and the plant protection service of the country where the article is grown, as set forth in subparagraphs (1) and (2) of § 319.37-8(e) quoted above. However, it appears that these provisions are necessary in order to assure that the country of origin and the grower understand and agree to meet the complex conditions for the importation of articles of *Hyacinthus* spp. in such growing media, and that the grower agrees to allow access to the growing facility by Plant Protection and Quarantine and the plant protection service of the country of origin in order that determinations could be made concerning whether the articles meet the conditions for the importation of articles of *Hyacinthus* spp. in such growing media.

Based on a review of the experimental program concerning the importation of articles of *Hyacinthus* spp. in such growing media and a review of the criteria established in § 319.37-8(e) for the importation of the five categories of articles in such growing media, it appears that the conditions imposed during the experimental program and the conditions concerning written agreements would assure that the articles and the growing media would be grown, stored, and shipped in isolation from such diseases and pests, and that these conditions would be adequate to allow the importation of articles of *Hyacinthus* spp. in such growing media without presenting a significant risk of introducing diseases or pests. Therefore, in order to relieve restrictions that appear to be unnecessary, it is proposed to amend the regulations to allow the importation of articles of *Hyacinthus* spp. in such growing media under the conditions explained above.

It should also be noted that articles of *Hyacinthus* spp. are subject to additional general requirements, in the regulations, i.e., requirements concerning permits, inspection,

phytosanitary certificates of inspection, growing media, approved packing material, marking and identity, arrival notification, prohibited articles accompanying restricted articles, treatment and costs and charges for inspection and treatment, and ports of entry (see 7 CFR 319.37 through 319.37-14).

PART 319—FOREIGN QUARANTINE NOTICES

Under the circumstances referred to above, it is proposed to amend the "Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products" regulations (7 CFR 319.37 through 319.37-14) by adding a new § 319.37-8(f) to read as follows:

§ 319.37-8 Growing media.

* * * * *

(f) A restricted article of *Hyacinthus* spp. (hyacinth) may be imported established in unused peat, sphagnum moss, or vermiculite growing media, or in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, or ureaformaldehyde;

(1) If there is a written agreement between Plant Protection and Quarantine and the plant protection service of the country where the article is grown in which the plant protection service of the country where the article is grown agrees to implement a program in compliance with the provisions of this section;

(2) If there is a written agreement between the grower of the article and the plant protection service of the country in which the article is grown wherein the grower agrees to comply with the provisions of this section, wherein the grower agrees to allow an inspector access to the growing facility as necessary to monitor compliance with the provisions of this section, and wherein the grower agrees to allow representatives of the plant protection service of the country in which the article is grown access to the growing facility as necessary to make determinations concerning compliance with the provisions of this section;

(3) If: (i) Inspected by the plant protection service of the country in which the article is to be grown immediately prior to the growing period and found to be free of injurious plant diseases, injurious insect pests, and other plant pests;

(ii) Grown throughout its growing period only in a coldroom (with

temperatures not exceeding 6° C (43° F)) within an enclosed building;

(iii) Grown only in a coldroom unit solely used for articles grown under all the criteria specified in this paragraph (f);

(iv) Grown only in unused peat, sphagnum moss, or vermiculite growing media; or grown only in synthetic growing media or synthetic horticultural foams, i.e., plastic particles, glass wool, organic and inorganic fibers, polyurethane, polystyrene, polyethylene, phenol formaldehyde, ureaformaldehyde;

(v) Watered only with clean rainwater that has been pasteurized, with clean well water, or with potable water;

(vi) Grown in a coldroom free of sand, soil, or earth;

(vii) Grown only in a coldroom where strict sanitary procedures are always practiced, i.e., cleaning and disinfection of floors and tools and the application of measures to protect against any injurious plant diseases, injurious insect pests, and other plant pests; and

(viii) Stored only in areas found free of sand, soil, earth, injurious plant diseases, injurious insect pests, and other plant pests.

(4) If appropriate measures have been taken to assure that the article is to be stored, packaged, and shipped free of injurious plant diseases, injurious insect pests, and other plant pests;

(5) If accompanied by a phytosanitary certificate of inspection containing an accurate additional declaration from the plant protection service of the country in which grown that the article meets conditions of growing, storing, and shipping in compliance with 7 CFR 319.37-8(f); and

(6) If the accompanying phytosanitary certificate of inspection is endorsed by a Plant Protection and Quarantine inspector in the country of origin or at the time of offer for importation, representing a finding based on monitoring inspections that the conditions listed above are being met.

(Secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); 37 FR 28464, 28477, as amended; 38 FR 19141))

Done at Washington, D.C., this 22d day of October 1981.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 81-31238 Filed 10-27-81; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[Docket No. PRM-20-10]

Citizens United for Responsible Energy; Granting of Petition for Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Response to petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission is hereby granting in substance a petition for rulemaking submitted by Citizens United for Responsible Energy (CURE). The petition requested that NRC regulations be amended to require operators of nuclear power reactors to report abnormal incidents immediately to NRC and to a designated State agency. Recently, the Commission has established notification requirements which meet the basic intent of the requirements in the petition.

FOR FURTHER INFORMATION CONTACT: Mr. Michael T Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone 301-443-5942.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has granted in substance a petition for rulemaking, dated December 27, 1977, submitted by Citizens United for Responsible Energy (CURE). A notice of filing of the petition was published in the Federal Register on January 25, 1978 (43 FR 3448), and public comment was invited. Thirty-two comment letters were received. 25 commenters opposed the petition, six supported it, and one took no clear position. Copies of the petition and the public comments are available for free inspection or copying for a fee at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Issues Raised in Petition

The petition maintained that NRC had inadequate requirements for notification of NRC and State officials by nuclear power plant operators in the event of an abnormal occurrence. The petitioner requested NRC to rescind § 20.403, "Notification of Incidents" of 10 CFR Part 20, "Standards for Protection against Radiation," as petitioner considered § 20.403 inadequate. The petitioner specifically requested NRC to (1) require all abnormal incidents to be reported immediately (within one half

hour) to the appropriate NRC Regional Office, (2) require that all abnormal incidents be reported immediately (within one half hour) to a designated State agency within 200 miles of the incident, and (3) define an abnormal incident as one which involves radioactive releases to air or water.

Response to Petition

The staff began its evaluation of the petition and the public comment letters in the early part of 1978, but it was after the Three Mile Island accident when the NRC staff acted to ensure the timely flow of information from nuclear power reactor operators following significant events relating to the public health and safety. Dedicated telephone lines have been installed from all operating plants to the NRC Operations Center and Regional Offices. New regulations have been published which modified § 20.403 and 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities" (45 FR 13434-5, February 29, 1980). The regulations in 10 CFR 50.47 and 50.72 are now effective. Section 50.72 includes a provision that each nuclear power reactor licensee must notify NRC as soon as possible, and in all cases within one hour, of twelve specified significant events. These include the initiation of the licensee's emergency plan (or any section thereof) as well as an accidental, unplanned, or uncontrolled radioactive release.¹

Likewise, on August 19, 1980, the NRC published final regulations relating to Emergency Planning and Preparedness (45 FR 55402). These regulations, in Appendix E, Section D.3. of 10 CFR Part 50, require that "a licensee shall have the capability to notify responsible State and local governmental agencies within 15 minutes after declaring an emergency." See also, 10 CFR 50.47(b)(5).

In addition, the new Emergency Preparedness regulations refer to NUREG-0654/FEMA-REP-1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants" for further discussion of emergency plans. NUREG-0654 specifies

that power reactor licensees should promptly notify State and local authorities when any unusual event occurs.

The effective regulations and the guidance documents, while not requiring exactly what the petitioner requested, do establish prompt notification requirements which follow the basic intent of the petition. In addition, rescission of 10 CFR 20.403 would affect all NRC licensees for source, byproduct, and special nuclear material and would not be limited to nuclear power reactor licensees. Therefore, the CURE petition is being treated by the NRC as having been granted in substance. In light of present NRC regulatory requirements concerning immediate notification of the NRC and State and local officials of significant events at nuclear power reactors, further NRC action would be unnecessary and duplicative. Accordingly, the docket has been closed.

Dated at Bethesda, Maryland this 16th day of October, 1981.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 81-31222 Filed 10-27-81; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Parts 1 and 2

Procedures Involving the Equal Access to Justice Act: Implementation

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend its rules of practice to add new provisions designed to implement the recently enacted Equal Access to Justice Act, Pub. L. No. 96-481. That Act provides for the award of fees and expenses to certain individuals and businesses that prevail in agency adjudications in which the agency's position is determined not to have been substantially justified. The basis for these proposed regulations is a set of model rules issued by the Administrative Conference of the United States, which have been modified to conform to the Nuclear Regulatory Commission's established rules of practice.

DATE: Comment period expires November 27, 1981. Comments received after this date will be considered if practical to do so but assurance of consideration cannot be given except to comments received on or before this date.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attn: Docketing and Service Branch. Copies of all comments received may be examined and copied for a fee in the Commission's Public Document Room at 1717 H Street, N.W., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Paul Bollwerk, Esq., Office of the General Counsel, (202) 634-3224, U.S. Nuclear Regulatory Commission, Washington, DC, 20555.

SUPPLEMENTARY INFORMATION:

I. Background

On October 21, 1980, President Carter signed into law Equal Access to Justice Act (EAJA), Pub. L. No. 96-481, 94 Stat. 2325, 5 U.S.C. § 504. Under its terms, which become effective October 1, 1981, individuals and business entities meeting certain net worth and other requirements may be awarded fees and expenses incurred in connection with agency "adversary adjudications" if they prevail over the agency unless the presiding adjudicatory official determines that the agency's position was substantially justified or that special circumstances preclude an award as unjust. 5 U.S.C. 504(a). The Act also provides that each agency, after consultation with the Administrative Conference of the United States (ACUS), is to establish uniform procedures for the submission and consideration of applications for awards of fees and expenses. *Id.* § 504(c)(1). To facilitate this statutory requirement, ACUS developed and issued model rules for consideration and utilization by those agencies affected by the EAJA's requirements. 46 FR 15895 (March 10, 1981) and 46 FR 32900 (June 25, 1981). The basis for the rules now proposed by the Nuclear Regulatory Commission (NRC) are those ACUS model rules, except to the extent, as more fully explained herein, they are deemed unnecessary or not consistent with present NRC procedure. The proposed rules, if adopted, will be added to the Commission's regulations in 10 CFR Part 2, "Rules of Practice for Domestic Licensing Proceedings," as a new subpart J and will apply to adversary adjudications pending before the NRC on October 1, 1981, or thereafter. In addition certain minor changes would be made to 10 CFR Part 1 and other sections of Part 2 to indicate the role of the Atomic Safety and Licensing Board and the Atomic Safety and Licensing Appeal Board in ruling on EAJA applications.

¹In fact, comments have been received concerning the notification requirements in § 50.72 and the staff has had approximately 16 months experience implementing this regulation. The staff is now in the process of making certain minor modifications in order to clarify the notification requirements in § 50.72. One such change that the NRC staff is considering proposing to the Commission is to add the following sentence to § 50.72, "All such notifications (of the four classes of emergencies) to the NRC shall be made immediately after notification to the State or local agencies and shall identify that the notice is being made pursuant to this paragraph."

II. Section-by-Section Analysis

Proposed § 2.1000 is a compilation of §§ 0.101–103 of the ACUS Model Rules and is designed to give a general overview of the proceedings covered by the EAJA. Much of §§ 0.101–103 of the Model Rules is a restatement of the terms of the Act, which has been omitted. Retained and modified, however, are the Model Rules provisions dealing with those agency proceedings that are to be deemed “adversary adjudications” such that the EAJA is applicable. As a recent information paper submitted to the Commission from the Office of the General Counsel (OGC) and the Office of the Executive Legal Director (OELD) indicates, the EAJA, which applies to proceedings that are required by statute to be conducted on the record, appears to encompass only NRC proceedings relating to the modification, suspension, or revocation of reactor licenses. SECY–81–169, at 3–4 & n.4.¹ See also U.S. Dep’t of Justice, *Attorney General’s Manual on the Administrative Procedure Act*, 41–43 (1947). Although the ACUS Model Rules suggest that all covered proceedings should be listed in the agency’s rules, as was noted in SECY–81–169, there is no definitive answer about the EAJA’s applicability to proceedings concerning domestic materials licenses. The Commission, therefore, has decided to include only language delineating the general statutory exemption for proceedings granting or renewing licenses without indicating what specific types of licensing action are involved.²

Proposed § 2.1001 corresponds to § 0.104 of the ACUS Model Rules and denotes the eligibility requirements for award applicants.

Minor changes include the rewording of § 2.1001(a) to indicate more specifically that the types of applicants

are limited, the addition of an example to § 2.1001(e) to show how part-time employees are to be counted, and the substitution of the term “presiding officer” for the statutory term “adjudicative officer” in § 2.1001(f). The last change, which has been implemented throughout the remainder of the proposed rule, is in line with the use of the term “presiding officer” in 10 CFR Part 2 to designate the Atomic Safety and Licensing Board, Administrative Law Judge, or other adjudicative official having the designated responsibility for rendering an initial agency decision.

Proposed § 2.1002, which corresponds to ACUS Model Rule § 0.105 and restates the statutory standard for awards, is unchanged except for the substitution of the term “agency staff” for “agency counsel” to conform the language to NRC practice. Similar conforming changes have been made throughout the proposed rules.

Revisions to ACUS Model Rules § 0.106, which is § 2.1003 of the NRC’s proposed rule and relates to allowable fees and expenses, are also mostly minor grammatical and conforming changes. Contrary to the suggestion in § 0.106(b) of the Model Rules, however, no exact figure has been provided in the proposed § 2.1003(b) for the highest rate of compensation for expert witnesses because that figure, dependent as it is on the highest rate at which NRC pays its expert witnesses, potentially would be subject to numerous changes and is otherwise available from the agency.

Proposed § 2.1004 corresponds to ACUS Model Rules § 0.107 and sets forth procedures for rulemaking proceedings, as are referenced in the EAJA, 5 U.S.C. § 504(b)(1)(A)(ii), for raising the \$75 per hour cap on attorney or agent fees. Any petition for rulemaking on this subject will be handled in conformity with 10 CFR 2.802.

Proposed § 2.1005, which corresponds to ACUS Model Rule § 0.108, provides for an award against an agency of the United States other than the NRC in those rare instances in which another agency participates in an NRC proceeding that is subject to the EAJA.

Proposed § 2.1006, which corresponds to § 0.109 of the ACUS Model Rules, is a general Commission delegation of authority to presiding officers, including the Atomic Safety and Licensing Board, and the Atomic Safety and Licensing Appeal Board to take final action with regard to EAJA matters in adversary adjudications that may be before them. This is in conformity with existing Commission practice regarding reactor

licensing matters, *see* 10 CFR 2.721, 2.760, 2.785, and is subject to any other designation the Commission may make in a particular instance.

Sections 2.1010–1013 of the proposed rules, the agency’s counterparts to ACUS Model Rules §§ 0.201–204, have been adopted from the ACUS suggestions almost *in toto* with only two changes of substance. The purpose of these sections is to set out in detail the information that must be submitted to the agency by applicants for awards under the EAJA as well as when such applications should be filed. The first change, which is in proposed § 2.1013(b), is an additional sentence not found in § 0.204(b) of the Model Rules that specifically indicates that judicial review of the final decision on the underlying controversy before the agency would stay any filing of an EAJA claim with the NRC. In that event, any EAJA award would be determined in accordance with the Act’s provisions concerning judicial review of adversary adjudications, 28 U.S.C. 2412(d)(3); 5 U.S.C. 504(c)(1).

Special mention also should be made of § 2.1011(b), which seeks to provide for confidential treatment of financial information submitted to the agency. Although the NRC General Counsel in comments on the proposed ACUS Model Rules expressed some doubt about the ability of any agency to protect such information from disclosure under the Freedom of Information Act (FOIA), nonetheless, in the absence of any specific statutory FOIA exclusion for such information, the proposed rule appears to present the best method of dealing with the potential problem by providing the agency with the information it is most likely to need in handling any FOIA request for financial information deemed by the presiding officer to be confidential. In addition, the second change mentioned has been made in this § 2.1011 (b) by the addition of procedures to allow all parties to receive and comment upon an applicant’s motion for nondisclosure and to allow the applicant, in the event of a finding that its net worth information will not be withheld, to receive back the information and withdraw its application. This latter provision is similar to the Commission’s existing regulations governing requests for withholding, 10 CFR 2.790(c).

Proposed §§ 2.1020–1028 are basically unchanged from their ACUS Model Rules counterparts, §§ 0.301–310, except for certain conforming amendments. These provisions set forth the procedures that applicants should follow in submitting, and that the

¹ In addition, as the OGC/OELD paper concluded, the EAJA does not apply to proceedings involving import and export licenses. Likewise, although SECY–81–169 concluded that the EAJA might be applicable to contract dispute proceedings before an agency Board of Contract Appeals, the comments to the ACUS Model Rules indicate otherwise, 46 F.R. at 32901–02, and accordingly no specific mention of such proceedings is considered necessary.

Copies of SECY–81–169 are available for inspection and may be copied for a fee in the Commission’s Public Document Room at 1717 H Street, N.W., Washington, DC.

² SECY–81–169 expressed some uncertainty about whether the EAJA applied to civil penalty proceedings under 10 CFR 2.205 because an opportunity for a hearing is provided by rule rather than required by statute. However, in response to comments on its proposed Model Rules, ACUS dropped a provision suggesting that awards would be available when agencies voluntarily held on the record hearings and acknowledged that the EAJA should be considered to apply only when a formal hearing is a statutory or constitutional requirement. 46 F.R. at 32901.

agency will follow in considering requests for EAJA awards. A sentence has been added to proposed § 2.1025(a) to indicate that, absent a Commission designation of another official pursuant to proposed § 2.1006, the presiding officer with responsibility for the underlying proceeding will preside over the determination of any EAJA application. In addition, the time limits set for the answer, reply, and presiding officer's decision are slightly longer than those now allowed for comparable submissions in the course of a licensing hearing. Compare 10 CFR 2.705 (twenty days for answer), 2.706 (ten days for reply), and Part 2, App. A, ¶III(d) (thirty-five days for presiding officer's initial decision) with proposed 10 CFR 2.1021 (thirty days for answer to application), 2.1022 (fifteen days for reply), and 2.1026 (forty-five days for presiding officer's initial decision). The unique nature of the questions presented in determining whether an EAJA award should be made as well as the fact that the time expended in reaching such a determination will not impact on the operation of the facility involved in the underlying adversary adjudication makes such longer limitations acceptable. A further change is found in proposed § 2.1027, in that the provision of its ACUS Model Rules counterpart, § 0.308, providing for discretionary agency review of an initial EAJA award decision has been dropped as inconsistent with present NRC regulations that provide an appeal of right in agency adjudications. Also deleted is the final sentence of Model Rule § 0.308, which denotes those actions that may be taken by the reviewing body, and Model Rule § 0.309, which indicates that judicial review of a final agency decision on an EAJA application is available under 5 U.S.C. § 504(c)(2). Both of these provisions are considered unnecessary in light of existing regulations and the terms of the EAJA.

Finally, conforming amendments indicating the applicability of the Equal Access to Justice Act are proposed to be made to existing NRC regulations 10 CFR 1.12, which gives a general description of the Atomic Safety and Licensing Appeal Board's duties; 10 CFR 2.1, which defines the scope of the procedural rules found in Part 2; and 10 CFR 2.721 and 2.785, which respectively set forth the functions of the Atomic Safety and Licensing Board and the Atomic Safety and Licensing Appeal Board.

In accordance with 5 U.S.C. 553(d)(3), it is the Commission's intention to make these proposed rules immediately

effective when they are published in final form. Good cause exists for such action in that the rules are procedural and, as such, will not adversely affect any member of the public.

III. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. A recent ACUS estimate based on the Uniform Caseload Accounting system indicates that the number of small entities involved will amount to perhaps one-half dozen per year. Moreover, the rule will have a beneficial effect for such entities by establishing a procedural framework for the submission and determination of applications for fees and expenses incurred in participating in NRC adversary adjudications.

IV. Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1980, Pub. L. No. 96-511, 44 U.S.C. 3501-3520, this proposed rule has been submitted to the Office of Management and Budget (OMB) for clearance of its reporting/recordkeeping/application requirements. The SF-83, "Request for Clearance," a supporting statement, and other related documentation submitted to OMB have been placed in the NRC Public Document Room at 1717 H Street, NW., Washington, DC 20555 for inspection and copying for a fee.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that the following revisions to Title 10, Chapter 1, Parts 1 and 2, Code of Federal Regulations are contemplated:

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

1. The authority citation for Part 1 is revised to read as follows:

Authority: Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); secs. 201, 203, 204, 205, and 209, Pub. L. 93-438, 88 Stat. 1242, 1244, 1245, 1246, and 1248 (42 U.S.C. 5841, 5843, 5844, and 5849); Pub. L. 94-79, 89 Stat. 413; and 5 U.S.C. 504, 552, and 553.

2. Section 1.12 of Part 1 is revised to read as follows:

§ 1.12 Atomic Safety and Licensing Appeal Panel.

The Atomic Safety and Licensing Appeal Panel is the organizational group from which Atomic Safety and Licensing Appeal Boards are selected. Under

powers delegated by the Commission, these three-member Boards exercise the authority and perform the regulatory review functions which would otherwise be exercised and performed by the Commission. They perform these functions in proceedings on licenses under 10 CFR Part 50, and such other licensing proceedings as the Commission may specify, reviewing initial decisions and other issuances of Atomic Safety and Licensing Boards and other presiding officers. They shall also perform these functions in proceedings under the Equal Access to Justice Act. The Panel shall be comprised of a Chief Administrative Judge who shall be Chairman and such other Administrative Judges as may be appointed members of the Panel.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEDURE

3. The authority citation for Part 2 is revised to read as follows:

Authority: Secs. 161p and 181, Pub. L. 83-703, 68 Stat. 950 and 953 (42 U.S.C. 2201(p) and 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841); 5 U.S.C. 522; 5 U.S.C. 504; unless otherwise noted. Sections 2.200-2.206 also issued under sec. 186, Pub. L. 83-703, 68 Stat. 955 (42 U.S.C. 2236) and sec. 206, Pub. L. 93-438, 88 Stat. 1246 (43 U.S.C. 5846). Sections 2.800-2.808 also issued under 5 U.S.C. 553.

4. Section 2.1 of Part 2 is revised to read as follows:

§ 2.1 Scope.

This part governs the conduct of all proceedings, other than export and import licensing proceedings described in Part 110, under the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, for: (a) Granting, suspending, revoking, amending, or taking other action with respect to any license, construction permit, or application to transfer a license; (b) imposing civil penalties under section 234 of the Act; and (c) public rulemaking. This part also governs proceedings under the Equal Access to Justice Act.

5. In Part 2, section 2.721, paragraph (a) is revised to read as follows:

§ 2.721 Atomic safety and licensing boards.

(a) The Commission or the Chairman of the Atomic Safety and Licensing Board Panel may from time to time establish one or more atomic safety and licensing boards, each comprised of three members, one of whom will be qualified in the conduct of administrative proceedings and two of

whom shall have such technical or other qualifications as the Commission or the Chairman of the Atomic Safety and Licensing Board Panel deems appropriate to the issues to be decided, to preside in such proceedings for granting, suspending, revoking, or amending licenses of authorizations as the Commission may designate, to preside in proceedings under the Equal Access to Justice Act as set forth in Subpart J of this Part, and to perform such other adjudicatory function as the Commission deems appropriate. The members of an atomic safety and licensing board shall be designated from the Atomic Safety and Licensing Board Panel established by the Commission.

* * * * *

6. In section 2.785, paragraph (a) is revised to read as follows:

§ 2.785 Functions of Atomic Safety and Licensing Appeal Board.

(a) The Commission has authorized Atomic Safety and Licensing Appeal Board to exercise the authority and perform the review functions which would otherwise have been exercised and performed by the Commission, including, but not limited to, those under §§ 2.760–2.771, 2.912, and 2.913 in: (1) Proceedings on applications for licenses under Part 50 of this chapter, (2) such other licensing proceedings under the regulations in this chapter as the Commission may specify, and (3) proceedings under the Equal Access to Justice Act.

* * * * *

7. Part 2 is amended by adding a new Subpart J to read as follows:

Subpart J—Implementation of the Equal Access to Justice Act in Agency Proceedings

General Provisions

- 2.1000 Scope.
- 2.1001 Eligibility of applicants.
- 2.1002 Standards for awards.
- 2.1003 Allowable fees and expenses.
- 2.1004 Rulemaking on maximum rates for attorney or agent fees.
- 2.1005 Awards against other agencies.
- 2.1006 Delegations of authority.

Information Required From Applicants

- 2.1010 Contents of application.
- 2.1011 Net worth exhibit.
- 2.1012 Documentation of fees and expenses.
- 2.1013 When an application may be filed.

Procedures For Considering Applications

- 2.1020 Filing and service of documents.
- 2.1021 Answer to application.
- 2.1022 Reply.
- 2.1023 Comments by other parties.
- 2.1024 Settlement.
- 2.1025 Further proceedings.
- 2.1026 Decision.
- 2.1027 Agency review.

2.1028 Payment of award.

General Provisions

§ 2.1000 Scope.

The Equal Access to Justice Act (referred to as "the Act" in this subpart) provides for the award of attorney or agent fees and other expenses to eligible individuals and entities who are prevailing parties to adversary adjudications conducted by the NRC. Such adjudications are those held under 5 U.S.C. 554 in which the position of this or any other agency of the United States, or any component of an agency, is represented by an attorney or other representative who enters an appearance and participates in the proceeding. Proceedings to grant or renew licenses are excluded by the Act, but proceedings to modify, suspend, or revoke a license are covered if they are otherwise adversary adjudications within the meaning of the Act. If a proceeding includes matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§ 2.1001 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this section and in §§ 2.1010–2.1013.

(b) Applicants eligible for awards under the Act are limited to:

(1) An individual with a net worth of not more than \$1 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than \$5 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agriculture Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; and

(5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than \$5 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis (e.g.—two part-time employees each working one-half the time required of an average full-time employee should be counted as one full-time employee).

(f) The net worth and number of employees of the applicant and all of its affiliates must be aggregated to determine eligibility. Any individual, corporation, or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this subpart, unless the presiding officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the presiding officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 2.1002 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the agency over which the applicant has prevailed was substantially justified. The burden of proof that an award should not be made to an eligible prevailing applicant is on the agency staff, which may avoid an award by showing that its position was reasonable in law and fact.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust.

§ 2.1003 Allowable fees and expenses.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents, and expert witnesses, even if the services were made available without charge or at a reduced rate to the applicant.

(b) No award for the fee of an attorney or agent under these rules may exceed \$75 per hour. No award to compensate an expert witness may exceed the highest rate at which the NRC pays expert witnesses. An award may include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent, or witness ordinarily charges clients separately for these expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent, or expert witness, the presiding officer shall consider the following:

(1) If the attorney, agent, or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent, or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project, or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

§ 2.1004 Rulemaking on maximum rates for attorney or agent fees.

(a) If warranted by an increase in the cost of living or by special circumstances (such as limited availability of attorneys or agents qualified to handle certain types of proceedings), the NRC may adopt regulations providing that attorney or agent fees may be awarded at a rate higher than \$75 per hour in some or all of the types of proceedings covered by this subpart. Any person may file with this agency a petition for rulemaking to increase the maximum rate for attorney or agent fees, in accordance with 10 CFR 2.802. The petition should identify the rate the petitioner believes this agency should establish and the types of proceedings in which the rate should be

used. It should also explain fully the reasons why the higher rate is warranted.

§ 2.1005 Awards against other agencies.

If an applicant is entitled to an award because it prevails over another agency of the United States that participates in a proceeding before the NRC and takes a position that is not substantially justified, the award or an appropriate portion of the award must be made against that agency.

§ 2.1006 Delegations of authority.

The Commission delegates to the presiding officer and the Atomic Safety and Licensing Appeal Board authority to take final action on matters pertaining to the Equal Access to Justice Act, 5 U.S.C. 504, in adversary adjudications before these officials. The Commission may by order delegate authority to take final action on matters pertaining to the Equal Access to Justice Act in particular cases to other subordinate officials or bodies.

Information Required From Applicants**§ 2.1010 Contents of application.**

(a) An application for an award of fees and expenses under the Act must identify the applicant and the proceeding for which an award is sought. The application must show that the applicant has prevailed and identify the position of an agency or agencies in the proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application must also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application must also include a statement that the applicant's net worth does not exceed \$1 million (if an individual) or \$5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application must state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes the NRC to consider in determining whether and in what amount an award should be made.

(e) The application must be signed by the applicant or an authorized officer or attorney of the applicant. It must also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

§ 2.1011 Net worth exhibit.

(a) Each applicant, except a qualified tax-exempt organization or cooperative association, shall provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 2.1001(f) of this subpart) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this subpart. The presiding officer may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit is included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the presiding officer in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion must describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)-(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The net worth material in question must be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. The motion to withhold the information shall be served on all parties to the proceeding, who shall have ten (10) days within which to file any reply supporting or contesting the request for nondisclosure. If the presiding officer finds that the information should not be withheld from disclosure, it must be placed in the public record of the proceeding, unless

the applicant has indicated in its motion that, in the event of a refusal to withhold from disclosure, it would prefer that all net worth material be returned to it and that its award application be withdrawn. Otherwise, any request to inspect or copy the exhibit will be disposed of in accordance with the NRC's established procedures under the Freedom of Information Act, 10 CFR 9.3-16.

§ 2.1012 Documentation of fees and expenses.

The application must be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project, or similar matter, for which an award is sought. A separate itemized statement must be submitted for each professional firm or individual whose services are covered by the application showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The presiding officer may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§ 2.1013 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding, but in no case later than thirty (30) days after a final disposition of the proceeding.

(b) If agency review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees will be stayed pending final disposition of the underlying controversy. If judicial review is sought or taken of a final disposition of the underlying controversy as to which an applicant believes it has prevailed, proceedings for the award of fees will be stayed and determined in accordance with 28 U.S.C. 2412(d)(3) and 5 U.S.C. 504(c)(1).

(c) For purposes of this subpart, final disposition means the later of (1) the date on which an initial decision or other disposition of the merits of the proceeding by the presiding officer, the Atomic Safety and Licensing Appeal Board, or the Commission becomes administratively final; (2) issuance of an order disposing of any petitions for

reconsideration of a final order in the proceeding; (3) if no petition for reconsideration is filed, the last date on which such a petition could have been filed; or (4) issuance of a final order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

Procedures For Considering Applications

§ 2.1020. Filing and service of documents.

Any application for an award or other pleading or document related to an application must be filed and served on all parties to the proceeding in accordance with the Commission's rules, 10 CFR 2.701 and 2.712, except as provided in § 2.1011(b) for confidential financial information.

§ 2.1021 Answer to application.

(a) Within thirty (30) days after service of an application, staff counsel may file an answer to the application. Unless staff counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the thirty-day period may be treated as a consent to the award requested.

(b) If staff counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement extends the time for filing an answer for an additional thirty (30) days, and further extensions may be granted by the presiding officer upon request by staff counsel and the applicant.

(c) The answer must explain in detail any objections to the award requested and identify the facts relied on in support of staff counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, staff counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 2.1025.

§ 2.1022 Reply.

Within fifteen (15) days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceeding under § 2.1025.

§ 2.1023 Comments by other parties.

Any party to a proceeding other than the applicant and staff counsel may file comments on an application within

thirty (30) days after it is served or on an answer within fifteen (15) days after it is served. A commenting party may not participate further in proceedings on the application unless the presiding officer determines that the public interest requires its participation in order to permit full exploration of matters raised in the comments.

§ 2.1024 Settlement.

The applicant and staff counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded. If a prevailing party and staff counsel agree on a proposed settlement of an award before an application has been filed, the application must be filed with the proposed settlement. Any settlement is subject to approval by the presiding officer. See 10 CFR 2.203.

§ 2.1025 Further proceedings.

(a) The presiding officer who renders the initial decision in the underlying proceeding will preside over any Equal Access to Justice Act proceeding unless the Commission designates some other official pursuant to § 2.1006. Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or staff counsel, or *sua sponte*, the presiding officer may order further proceedings, such as an informal conference, oral argument, additional written submissions or an evidentiary hearing. Any further proceedings will be held only when necessary for full and fair resolution of the issues arising from the application, and must be conducted as promptly as possible.

(b) A request that the presiding officer order further proceedings under this section must specifically identify the information sought or the disputed issues and must explain why the additional proceedings are necessary to resolve the issues.

§ 2.1026 Decision.

The presiding officer's initial decision on the application should ordinarily be issued within forty-five (45) days after completion of proceedings on the application. The decision must include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision must also include, if at issue, findings on whether the agency's position was substantially

justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. If the applicant has sought an award against more than one agency, the decision must allocate responsibility for payment of any award made among the agencies, and must explain the reasons for the allocation made.

§ 2.1027 Agency review.

Review of the initial decision on the fee application shall be requested and conducted in accordance with §§ 2.760, 2.762-763, 2.770-772, and 2.785-787. If neither the applicant nor staff counsel seeks review and neither the Atomic Safety and Licensing Appeal Board nor the Commission takes review on its own initiative, the initial decision on the application becomes a final decision of the agency thirty (30) days after it is issued.

§ 2.1028 Payment of award.

An applicant seeking payment of an award from the NRC shall submit a copy of the agency's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts to Director, Division of Accounting, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC, 20555. The agency will pay the amount awarded to the applicant within sixty (60) days, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

Dated at Washington, DC, this 23d day of October 1981.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc 81-31250 Filed 10-27-81; 8:45am]

BILLING CODE 7590-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 298

[EDR-434; Docket No. 40135; Dated: October 14, 1981]

Classification and Exemption of Air Taxi Operators; Commuter Air Carrier

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The CAB proposes to change the definition of commuter air carrier in order to remove cargo and mail carriers from that classification. Small cargo and mail carriers would continue to be considered air taxis but not commuters.

This action is taken at the Board's own initiative in order to reduce the reporting and other regulatory burdens on these small airlines.

DATES: Comments by: December 28, 1981. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: November 12, 1981. The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40135, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Part 298 of the Board's rules (14 CFR Part 298) establishes a class of carriers known as air taxi operators. These are carriers that operate small aircraft, presently considered to be aircraft having a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less. Air taxis register with the Board rather than obtaining a certificate of public convenience and necessity, and are exempted from several provisions, such as the tariff filing requirement, of the Federal Aviation Act.

Within the class of air taxis is a subclass known as commuter air carriers. These are air taxi operators that perform at least five round trips per week between two or more points and publish flight schedules that specify the times, days of the week, and places between which these flights are performed. This subclass presently includes both carriers of passengers and carriers of cargo. It also includes carriers of mail under a contract with the United States Postal Service when the total amount of the contract or contracts is estimated to be in excess of 20,000 dollars over the next 12 months. This notice proposes to remove carriers of only cargo or mail from the subclass of commuter air carriers. If adopted, they would be treated like any other air taxi operator.

Under the present Part 298, commuters are subject to more rules than other air taxis. Commuters must file quarterly

reports, tariffs reflecting joint fare agreements with certificated carriers, and copies of their current flight schedules and charges. They must become signatories to the Warsaw Convention concerning international limits of liability by executing a counterpart to Agreement 18900 and filing a one-page tariff. In addition, commuters that wish to provide scheduled passenger service must, under section 419(c)(2) of the Act, be found fit, willing, and able to perform such service.

These additional requirements allow the Board to monitor and regulate the passenger operations of commuter air carriers. Yet, because the present definition of commuter air carrier in § 298.2(f) encompasses carriers providing mail and cargo service, those carriers are also subject to the filing and reporting requirements applicable to the passenger commuters.

We do not see any need to require mail and scheduled all-cargo carriers operating small aircraft to file quarterly operational reports or to meet the other requirements imposed on passenger commuters by Part 298. The Board has almost completely deregulated the domestic cargo area, where the bulk of the commuter cargo operations are conducted. We no longer differentiate, for regulatory purposes, between scheduled and nonscheduled cargo operations conducted with large aircraft. There appears to be no reason to continue such a distinction with respect to similar operations with small aircraft. In any event, since we do not use the information filed by cargo and mail carriers, there is no need to continue these requirements. We therefore propose to amend the definition of commuter air carrier in § 298.2(f) to exclude mail and cargo carriers from that subclass of air taxi operators. Changes are also made in the language of that definition to clarify that the commuter itself need not be the one publishing the schedule in order to fall within the definition of commuter.

This rule would not affect the reporting requirements applicable to those cargo air taxis that also hold certificates under section 418 of the Act. Those carriers must still comply with the reporting requirements of 14 CFR Part 291.

This action is consistent with the Regulatory Flexibility Act, Pub. L. 96-354, which took effect on January 1, 1981. It will, if adopted, reduce the reporting requirements and the regulatory obligations of small all-cargo and mail carriers without affecting any other small entity. The need, objectives,

and legal basis for this rule are described above. The only possible alternative would be to continue to treat small cargo and mail carriers as commuters, which we have tentatively concluded here to be unnecessary. This rule, if adopted, would not duplicate, overlap, or conflict with other federal rules.

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Accordingly, the Civil Aeronautics Board proposes to amend § 298.2(f) of 14 CFR Part 298, *Classification and Exemption of Air Taxi Operators*, to read:

§ 298.2 Definitions.

* * * * *

(f) "Commuter air carrier" means an air taxi operator that (1) carries passengers, and (2) performs at least five round trips per week between two or more points according to published flight schedules that specify the times, days of the week, and places between which those flights are performed.

* * * * *

(Secs. 101(3), 204, 401, 404, 407, 416, 418, 419, 85-726, as amended, 72 Stat. 737, 743, 754, 760, 766, 771, 91 Stat. 1284, 92 Stat. 1732 (49 U.S.C. 1301, 1324, 1371, 1374, 1377, 1386, 1388, 1389))

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-31239 Filed 10-27-81; 8:45 am]

BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 1939-2]

Commonwealth of Pennsylvania; Proposed Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule

SUMMARY: The Commonwealth of Pennsylvania has submitted a proposed revision to its State Implementation Plan (SIP) to incorporate an alternative emission reduction plan or "bubble". Pennsylvania has requested that the plan be approved by EPA for the Fairless Hills, PA plant of the United States Steel Corporation (USSC). This plan consists of a bubble permit and regulations which apply to particulate matter emissions from two sinter plant

windbox exhausts and ten sinter plant air cleaning devices located at Fairless Hills, Bucks County, Pennsylvania.

The Pennsylvania Department of Environmental Resources (DER) has requested, and EPA has agreed, that bubble applications be proposed concurrently by the State and EPA in order to expedite the approval process. Assuming that there are no public comments which would negatively affect the approvability of the bubble, and that the bubble proposal does not change substantively during DER's public comment period, DER and EPA can then concurrently issue final approval of the plan.

DATE: Comments must be submitted on or before November 27, 1981.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency,
Air Media & Energy Branch, Curtis
Building, 6th & Walnut Streets,
Philadelphia, PA 19106, Attn: Patricia
Sheridan (3AH11)

Pennsylvania Department of
Environmental Resources Bureau of
Air Quality Control, 200 North 3rd
Street, Harrisburg, PA 17120, Attn: Mr.
James Hambright

Public Information Reference Unit,
Room 2922, EPA Library, U.S.
Environmental Protection Agency, 401
M Street SW (Waterside Mall),
Washington, D.C. 20460

All comments on the proposed revision submitted on or before November 27, 1981, will be considered and should be directed to: Mr. Glenn Hanson, Chief, Pennsylvania Section (3AH11), Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, PA 19106, Attn: (AH027PA).

FOR FURTHER INFORMATION CONTACT:

Mr. David L. Arnold, U.S. Environmental Protection Agency, Region III, Air Media & Energy Branch, Curtis Building, 10th Floor, 6th Walnut Streets, Philadelphia, PA 19106.

SUPPLEMENTARY INFORMATION: The proposed changes to the Pennsylvania regulations were submitted on May 4, 1981. The changes will allow the implementation of an alternative emission reduction option (bubble) plan in accordance with EPA's Bubble Policy published in the Federal Register on December 11, 1979 (44 FR 77189). DER and EPA are processing this proposal concurrently. All comments received by

DER at the public hearing held September 3, 1981 in Norristown, Pennsylvania, and any written comments received by EPA, will be considered by EPA in making a final determination on the approvability of the plan.

The sinter plant at USSC's Fairless Works consists of twelve (12) particulate emission points which include ten air cleaning devices that control various sinter feed and discharge points and two sinter machine windboxes. The current Pennsylvania SIP (25 Pa. Code Section 123.13(b), of DER Air Resources Regulations) requires control of the two sinter windboxes to a level of 128 pounds per hour (64 lbs./hour each). The remaining ten emission points must not exceed a total particulate emission rate of 140 pounds per hour. The proposed bubble plan would allow the particulate emissions from the sinter plant windboxes to exceed the currently applicable limitations and, instead, would require compliance with 220 pounds per hour (110 lbs./hr. each) allowable emission rate. These higher particulate emissions would be offset by further controlling the other ten emission points to a total level of 43 pounds per hour. Therefore, implementation of the bubble plan as proposed would require the control of all sinter plant sources to a level of 263 pounds per hour which is less than the allowable 268 pounds per hour under the current regulations. Separate emission rates are proposed for each emission point. The company estimates its saving in pollution control costs would be approximately \$7 million.

EPA has analyzed the proposal and concluded that no adverse air quality impact would be encountered by implementing the proposed USSC bubble. These conclusions are based upon the following: (1) Plant-wide emissions will decrease significantly from actual emissions of 1812 pounds per hour to a level of 263 pounds per hour; (2) the emissions from the two windbox stacks (153 ft. and 161 ft. in height) will exceed the limitations of the existing State regulations under the bubble proposal but will be significantly less than present actual emissions. Emissions from the remaining ten stacks (ranging from 54 ft. to 118 ft. in height) will be less than those allowed by the current State regulations; (3) all emission points are located in the same immediate vicinity (i.e., the sinter plant which is 121 meters long and 50 meters wide); (4) area terrain is flat and there are no downwash or eddy effects; and (5) the area is presently attainment for

the primary and secondary National Ambient Air Quality Standards for particulate matter (extensive monitoring has shown no violations when the plant is operating at current emission levels (1812 lbs./hr.)).

The proposed regulation to implement this plan will become "Section 128.16, United States Steel Corporation, Fairless Hills, Pennsylvania" of the DER Air Resources Regulation, at 25 Pa. Code. Subsection (a) of the Section identifies the facility and the individual sources to which this plan applies. Subsection (b) prohibits particulate matter emissions from all these sources in excess of 263 pounds per hour. Subsection (c) prohibits particulate matter emissions from each identified source in Subsection (a) in excess of specified emission rates. Subsection (d) relieves this facility from compliance with Section 123.13(b) of DER Air Resources Regulations when in compliance with this Section and the conditions contained in the operating permit issued for this facility. Subsection (e) renders Section 128.16 void if any of the sources listed in Subsection (a) are permanently shut down.

In order for DER to determine compliance with these regulations, monitoring and testing requirements have been developed as conditions in the operating permit. USSC must conduct simultaneous stack tests on the two sinter windboxes, and stack tests on the remaining ten emission points within 10 days of the windbox tests. All tests must be conducted before January 31, 1983. In addition, stack tests, as mentioned above, will be conducted on an annual basis. On or before December 31, 1982 USSC will also be required to install and maintain pressure drop indicators and water flow gauges on all fabric collectors and scrubbers which are identified in the bubble plan. Daily monitoring of these instruments will be required to determine if any air cleaning device is malfunctioning. If a malfunction occurs, all reasonable maintenance must be exercised to correct any operation problem.

EPA is today proposing to approve this SIP revision in its present form since it has met the conditions of the December 11, 1979 Bubble Policy. If there are any significant changes made by DER to the SIP revision as proposed, EPA will issue a further public notice fully describing the modified SIP revision.

The public is invited to submit, to the address stated above, comments on whether the proposed changes to the

regulations should be approved as a revision to the Pennsylvania State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendments meet the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action, if promulgated, only approves State actions and imposes no new requirements.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. Section 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

(42 U.S.C. 7401-642)

Dated: July 31, 1981.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 81-31242 Filed 10-27-81; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 162

[OPP-250023B; PH-FRL-1970-8]

Notification to the Secretary of Agriculture of Exemption of Certain Biological Control Agents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Rule Related Notice.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a final regulation exempting certain biological control agents from regulation under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

FOR FURTHER INFORMATION CONTACT:

Fred S. Betz, Hazard Evaluation Division (TS-769C), Office of Pesticide Programs, Environmental Protection Agency, 2nd floor, Crystal Square #4, 1745 Jefferson Davis Highway, Arlington, Virginia 22202, 703-557-5632.

SUPPLEMENTARY INFORMATION: Sec. 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 92-516, 86 Stat. 973; Pub. L. 94-140, 89 Stat. 753; 7 U.S.C. 136 et seq.) provides that the Administrator shall provide the Secretary of Agriculture with a copy of any final regulation at least 30 days prior to signing it for publication in the Federal Register. If the Secretary comments in writing to the Administrator regarding any such final regulation within 15 days after receiving it, the Administrator shall publish in the Federal Register (with the final regulation) the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing to the Administrator within 15 days after receiving it, the Administrator may sign such regulation for publication in the Federal Register at any time after such 15-day period notwithstanding the foregoing 30-day time requirement. The time requirements may, however, be waived or modified to the extent agreed upon by the Administrator and the Secretary.

In accordance with sec. 25(a)(3) of FIFRA, EPA has also furnished a copy of this final regulation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate.

This regulation is designated as § 162.5(c) of 40 CFR Part 162, Regulations for the Enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act, and is titled "Exemption of Certain Pesticides from Further Regulation" Copies of this regulation, as submitted to the Department of Agriculture and the Congress, are available from the EPA contact cited above.

(Sec. 25 [Pub. L. 92-515, 86 Stat. 973; Pub. L. 94-140, 89 Stat. 753 (7 U.S.C. 136 et seq.)])

Dated: October 13, 1981.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 81-31224 Filed 10-27-81; 8:45 am]

BILLING CODE 6560-32-M

Notices

Federal Register

Vol. 46, No. 208

Wednesday, October 28, 1981

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1981-Crop Wheat Loan and Purchase Rates

Correction

In FR Doc. 81-28836 appearing at page 49156 in the issue of Tuesday, October 6, 1981, make the following changes:

(1) On page 49158, first column, the name "Shoshane" which appears in between then names "Power" and "Teton" should be changed to read "Shoshone".

(2) On page 49160, third column, under NEBRASKA, the name "Bonne" should be changed to read "Boone".

(3) On page 49162, first column, under SOUTH DAKOTA, the name "Hydes3" should be changed to read, "Hyde".

(4) On page 49163, third column, first line in paragraph (4), "Premiums or protein" should read "Premiums for protein".

(5) On page 49163, third column, in the authority citation, the first line which reads "(Secs. 4 and 5, 6 Stat. 1070, as amended)" should be changed to read "(Secs. 4 and 5, 62 Stat. 1070, as amended)".

BILLING CODE 1505-01-M

Forest Service

Deschutes National Forest Grazing Advisory Board: Meeting

The Deschutes National Forest Grazing Advisory Board will meet at 10 a.m. on November 17, 1981, at the Forest Supervisor's Office, 211 NE. Revere, Bend, Oregon 97701. The purpose of this meeting is:

1. Review Deschutes National Forest Range Management Program for 1982.
2. Review Allotment Management Plans and range betterment funds.

3. Review status of Forest Land and Resource Management Plan.

4. Open discussion of topics of interest to the Advisory Board.

The meeting will be open to the public. Persons who wish to attend should contact Will Griffin, 211 NE. Revere, Bend, Oregon 97701, phone 382-6922.

Dated: October 21, 1981.

David G. Mohla,

Forest Supervisor.

[FR Doc. 81-31276 Filed 10-27-81; 8:45 am]

BILLING CODE 3410-10-M

Competing Vegetation During Reestablishment of Forests on National Forest Lands in Pacific Southwest Region; Intent To Prepare Environmental Impact Statement

Methods of controlling competing vegetation during forest reestablishment in the Pacific Southwest region, Pacific Southwest region, California, Nevada—Mineral, Esmeralda, Carson City, Douglas and Washoe Counties; Oregon—Jackson County; intent to prepare an environmental impact statement.

The Department of Agriculture, Forest Service, will prepare an environmental impact statement for the management of competing vegetation during reestablishment of forests on National Forest lands in the Pacific Southwest region. This EIS will address methods of vegetation management, including chemical, thermal, mechanical, and hand methods.

A range of alternatives for managing vegetation will be considered. One of these will be to continue the current management direction. Current management direction is to use all appropriate methods, but to use herbicides only when essential to meet management goals; and to develop and encourage the use of integrated pest management (IPM) approaches.

Federal, state and local agencies, and individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include: (1) Identification of those issues to be addressed; (2) identification of issues to be analyzed in depth; and (3) elimination of insignificant issues, or those which have been covered by a

previous environmental review.

Zane G. Smith, Jr., Regional Forester, Pacific Southwest region, San Francisco, California is the responsible official.

The draft environmental impact statement should be available for public review by July 1982. The final environmental statement is scheduled to be completed in December 1982.

Questions about the proposed action and environmental impact statement should be directed to: Michael D. Srago, Regional Program Manager for Reforestation and Timber Stand Improvement; USDS, Forest Service, 630 Sansome Street, San Francisco, California 94111, (415) 556-2563. Written comments and suggestions concerning this analysis should be sent to the responsible official by January 15, 1982.

Dated: October 16, 1981.

Robert W. Cermak,

Deputy Regional Forester.

[FR Doc. 81-31254 Filed 10-27-81; 8:45 am]

BILLING CODE 3410-11-M

Targhee Forest Grazing Advisory Board; Meeting

The Targhee National Forest Grazing Advisory Board meeting will be held November 24, 1981, at 1:00 p.m. at the Supervisor's Office, Targhee National Forest, 420 North Bridge Street, St. Anthony, Idaho.

The purpose of the meeting will be for the Board to make recommendations to the Forest Supervisor on range allotment planning and the use of range betterment funds scheduled for fiscal year 1982.

In accordance with the Federal Advisory Committee Act, (Pub. L. 92-463) this meeting is open to the public. Forest Supervisor John Burns requests that comments from non-board members be withheld until the conclusion of the business meeting.

For additional information, contact Phil Lee or Val Gibbs at the Targhee National Forest Supervisor's Office or telephone 208-624-3151.

John E. Burns,

Forest Supervisor.

[FR Doc. 81-31253 Filed 10-27-81; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket 40113]

America West Fitness Investigation; Canceling of Prehearing Conference

By notice dated October 16, 1981, [46 FR 51624, 10-21-81] a prehearing conference in this proceeding was scheduled for October 26, 1981. On October 20, Counsel for the Bureau of Domestic Aviation requested that no hearing be scheduled. The Bureau states that it is satisfied that the present record supports a finding that the applicant is fit, willing and able to perform the services described in its application. Further, the Bureau states that it does not need to cross-examine the applicant's witnesses. No other persons have petitioned to intervene in this proceeding.

The Bureau's motion will be granted and no hearing will be held in this proceeding. Further, there does not appear to be any necessity to hold the prehearing conference scheduled for October 26, and it will be cancelled also.

Accordingly, it is ordered that:

1. a hearing in this proceeding will not be scheduled; and

2. the prehearing conference scheduled for October 26, 1981 is canceled.

Dated at Washington, D.C., October 22, 1981.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 81-31218 Filed 10-17-81; 8:45 am]

BILLING CODE 6320-01-M

Instruments Inc., United Kingdom.

Intended use of article: See Notice on page 35326 in the Federal Register of July 8, 1981.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application relates to a compatible accessory for an instrument that has been previously imported for the use of the applicant institution. The article is being manufactured by the manufacturer which produced the instrument with which it is intended to be used. We are advised by the National Bureau of Standards in its memorandum dated October 6, 1981 that the accessory is pertinent to the applicant's intended uses and that it knows of no comparable domestic article.

The Department of Commerce knows of no similar accessory manufactured in the United States which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Instruments)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-31193 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-25-M

Mount Sinai Medical Center, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00254. Applicant: Mount Sinai Medical Center, Inc., 950 North 12th Street, P.O. Box 342, Milwaukee, WI 53201. Article: Electron Microscope, Model EM 400T and Accessories. Manufacturer: Philips Electronic Instruments, The

Netherlands. Intended use of article: See Notice on page 40246 in the Federal Register of August 7, 1981. Article ordered: November 12, 1980.

Docket No. 81-00255. Applicant: North Carolina A&T State University, Greensboro, North Carolina 27411. Article: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 40246 in the Federal Register of August 7, 1981. Article ordered: February 25, 1981.

Docket No. 81-00264. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, Illinois 60493. Article: Electron Microscope, Model JEM 100CX with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 40247 in the Federal Register of August 7, 1981. Article ordered: April 3, 1981.

Docket No. 81-00279. Applicant: University of California, Department of Botany, Davis, CA 95616. Article: Electron Microscope, Model JEM-100S with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 41544 in the Federal Register of August 17, 1981. Article ordered: April 15, 1981.

Docket No. 81-00288. Applicant: University of California, Berkeley, Purchasing Department, 2405 Bowditch Street, Berkeley, CA 94720. Article: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: See Notice on page 41545 in the Federal Register of August 17, 1981. Article ordered: April 14, 1981.

Docket No. 81-00294. Applicant: University of Iowa, University TEM Facility, Basic Science Building, Iowa City, Iowa 52242. Article: Electron Microscope, Model H-600-2 with Accompanying Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of article: See Notice on page 43730 in the Federal Register of August 31, 1981. Article ordered: December 22, 1980.

Docket No. 81-00298. Applicant: N.Y.S. Psychiatric Institute, Department of Neuropathology, 722 West 168th Street, New York, N.Y. 10032. Article: Electron Microscope, Model JEM-100CS. Manufacturer: JEOL Ltd., Japan. Intended use of article: See Notice on page 42093 in the Federal Register of August 19, 1981. Article ordered: November 18, 1980.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument

DEPARTMENT OF COMMERCE**International Trade Administration****Arizona State University; Decision on Application for Duty-Free Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 81-00224. Applicant: Arizona State University, Tempe, Arizona 85281. Article: Attachments for Electron Microscope. Manufacturer: VG

or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article established the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-31194 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-25-M

University of Illinois Campus at Urbana-Champaign; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 81-00209. Applicant: University of Illinois Campus at Urbana-Champaign, Purchasing Division, 223 Administration, Urbana, Illinois 61801. Article: Bede Double Axis X-Ray Diffractometer System and Related Components. Manufacturer: Bede Scientific Instruments, Ltd., United Kingdom. Intended use of article: See

Notice on page 31466 in the **Federal Register** of June 16, 1981.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The article provides double crystal diffractometry. The National Bureau of Standards advises in its memorandum dated October 8, 1981 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 81-31192 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-25-M

Molasses From France; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On September 22, 1981, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on molasses from France. The review covered the period January 1, 1980 through December 31, 1980. Interested parties were given an opportunity to submit written or oral comments. We received no comments. Therefore, as described in our preliminary results, we have determined that there were no net subsidies on molasses from France during the period of review and deposits of estimated countervailing duties shall not be collected on future entries of this merchandise.

EFFECTIVE DATE: October 28, 1981.

FOR FURTHER INFORMATION CONTACT: Josephine A. Russo or Joseph A. Black, Office of Compliance, Room 2802, International Trade Administration, U.S.

Department of Commerce, Washington, D.C. 20230 (202-377-1168 or 377-1774).

SUPPLEMENTARY INFORMATION:

Procedural Background

On May 5, 1971, the Department of the Treasury published in the **Federal Register** a countervailing duty order, T.D. 71-118 (36 FR 8365), on molasses from France. This order became effective on June 19, 1971. The order stated that exports of this merchandise benefited from bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Tariff Act"). Accordingly, imports into the United States of this merchandise were subject to countervailing duties.

On September 22, 1981, the Department of Commerce ("the Department") published in the **Federal Register** a notice of the preliminary results of its administrative review of that countervailing duty order (46 FR 46819). In the notice, we stated that there was no net subsidy on this merchandise during the period of review and that no deposit of estimated countervailing duties would be required on any entries until completion of the next administrative review. Interested parties were invited to comment.

Scope of the Review

Imports covered by this review are molasses imported directly or indirectly from France. These imports are currently classifiable under item number 155.40 of the Tariff Schedules of the United States. The review covered the period January 1, 1980 through December 31, 1980, and was limited to the program of restitution payments made through the Guidance and Guarantee Fund operated under the Common Agricultural Policy of the EC. This was the only program found counteravailable in the final determination.

Final Results of the Review

Since we have received no comments, the final results of our review are the same as those presented in the preliminary results of the review. There are no known unliquidated entries of this merchandise.

Therefore, as provided by section 751(a)(1) of the Tariff Act, the Department will instruct the Customs Service not to collect a cash deposit of estimated countervailing duties on any shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. This waiver of deposit shall remain in effect until publication of the final results of the next administrative

review. The Department intends to conduct the next review by the end of June 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

October 23, 1981.

[FR Doc. 81-31268 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-25-M

Bicycle Tires and Tubes from Taiwan: Reopened Investigation—Final Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Reopened investigation—final countervailing duty determination.

SUMMARY: This notice is to advise the public that, as ordered by the United States Court of International Trade, a reopened countervailing duty investigation has resulted in a final determination that Taiwan authorities have given benefits on the manufacture, production, or exportation of bicycle tires and tubes, with respect to one manufacturer, which constitute bounties or grants. With regard to the remaining companies, the Taiwan authorities have given benefits on the manufacture, production, or exportation of bicycle tires and tubes, but we have determined that these benefits are *de minimis* in amount, and thus do not constitute countervailable bounties or grants, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

EFFECTIVE DATE: October 28, 1981.

FOR FURTHER INFORMATION CONTACT: Raymond Busen, Office of Investigations, International Trade Administration, U.S. Department of Commerce, Room 2120, Washington, D.C. 20230 (202-377-1276).

Reopening of Investigation

On August 3, 1981, a notice of "Reopening of Countervailing Duty Investigation" was published in the Federal Register (46 FR 39464). The notice stated that, as ordered by the United States Court of International Trade, we were reopening the countervailing duty investigation on bicycle tires and tubes from Taiwan for the purpose of seeking the additional information on two programs specifically required by the Court in its order of June 19, 1981. We were directed

to report our redetermination to the Court.

Scope of Investigation

For the purposes of both the previous determination and this redetermination the term "bicycle tires and tubes" means pneumatic bicycle tires and tubes of rubber or plastics, whether such tires and tubes are sold together as units or separately. Bicycle tires and tubes currently are covered under Items 772.48 and 772.57, respectively, of the Tariff Schedules of the United States (TSUS). The period we investigated covers calendar year 1977, which is the same period covered in the original investigation.

Background

On January 8, 1979, a notice of "Final Countervailing Duty Determination" was published in the Federal Register (44 FR 1815). The notice stated that the Department of the Treasury ("Treasury") had determined that benefits had been paid by Taiwan authorities on the manufacture/exportation of bicycle tires and tubes, but that the benefits involved an aggregate amount considered to be *de minimis* in size, and that, therefore, no bounty or grant was being paid or bestowed, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production or exportation of bicycle tires and tubes from Taiwan.

The notice further stated that the Taiwan bicycle tire and tube manufacturers received benefits from Taiwan authorities under the following programs: (1) Preferential income tax ceiling—weighted-average benefit of .27 percent *ad valorem*, (2) preferential export financing—no firm received a benefit greater than .03 percent *ad valorem*, and the weighted-average benefit for all manufacturers/exporters was only .005 percent, and (3) deferred payment of duties on machinery and equipment imported into Taiwan—only one firm received benefits, and the benefit was only .002 percent *ad valorem*. The notice also indicated that Treasury determined that the "aggregate weighted-average benefit received by the industry during the period investigated was .28 percent *ad valorem*, with no single firm receiving more than .44 percent". Treasury determined that those benefits were *de minimis*.

On March 8, 1979, counsel for the petitioner filed suit in the United States Customs Court to challenge the Secretary of the Treasury's final countervailing duty determination (*Carlisle Tire and Rubber Co. v. United*

States, No. 79-3-00423). Specifically, plaintiff alleged that (1) a *de minimis* benefit must be countervailed, and (2) the amount of the benefits received were substantially larger than those found by the Secretary of the Treasury.

On June 19, 1981, the United States Court of International Trade held that the *de minimis* doctrine was applicable to cases arising under the countervailing duty statute. In addition, the Court stayed the proceedings and vacated Treasury's negative countervailing duty determination. Further, the Court remanded the case to the Secretary of Commerce for "further inquiries as may be needed to determine the ad valorem benefit provided the Taiwanese bicycle tire and tube manufacturers by * * * Taiwan" with respect to portions of two programs—(1) preferential income tax ceiling and (2) preferential export financing.

We visited the following Taiwan bicycle tire and tube manufacturers, located in Taichung and surrounding areas: Kenda Rubber Industrial Co., Ltd. (Kenda); Li-Hsin Rubber Industrial Co., Ltd. (Li-Hsin); and Seven-Stars Rubber Co., Ltd. (Seven-Stars). We also visited the Taichung branch of the International Commercial Bank of China (ICBC), and the Tax Audit Department of Taiwan's Central Region, located in Taichung City.

Results of the Investigation

Preferential Income Tax Ceiling

The Federal Register notice of January 8, 1979, stated that

under the Statute for the Encouragement of Investment, firms whose establishment or expansion was approved before December 31, 1973, qualify for a tax ceiling equivalent to 25 percent of the firms' taxable income. The usual tax rate is 35 percent of taxable income.

In conducting the countervailing duty investigation, the Secretary of the Treasury had received two sets of figures, virtually identical, from the Taiwan authorities and the Taiwan Bicycle Tire and Tube Manufacturers Association (the "Association"), respectively.

The Court stated that there had been insufficient data to substantiate the correct figures, and thus it could neither approve the Secretary of the Treasury's findings as to the *ad valorem* benefit of the 25 percent tax rate, nor could it accept plaintiff's computations based on the Taiwanese authorities' figures. Consequently, the Court remanded the case to the Department of Commerce for further inquiry to resolve this issue.

Preferential Export Financing

The Federal Register notice of January 8, 1979, stated that

Several firms exporting bicycle tires and tubes received advantageous loan rates, in connection with an export loan program, for the purchase of raw materials. The preferential loan rate is 6.5 percent (per annum) for a term not to exceed six months. The regular commercial loan rate varies between 10.5 to 10.75 percent for loans for similar terms.

The Court directed Commerce to obtain additional information on the amount of the loans, the actual duration of each loan, and the actual amounts of interest paid, and to redetermine the benefits based on that additional information.

We did afford interested parties an opportunity to comment on the two issues discussed in the August 3, 1981 notice.

Results of the Reopened Investigation

Preferential Income Tax Ceiling

We verified the numbers submitted in the latest response, including the actual amount of taxes paid. In order to verify these numbers, we examined the officially audited tax returns of each company. The tax audits on these returns were performed by local Taiwan tax authorities. As a result of our re-investigation and verification we have determined that the overall weighted-average benefit under this program is .43 percent *ad valorem*. Only one firm, however, Cheng Shin, received benefits whose aggregated *ad valorem* benefit was greater than *de minimis*.

Preferential Export Financing

Several firms exporting bicycle tires and tubes received preferential loan rates, in connection with an export loan program, for the purchase of raw materials. Only Taiwan banks appointed by the Central Bank of China (CBC) to handle foreign exchange matters could apply for discounts from CBC under regulations governing discounts on short-term (6-month or less) export loans. The preferential interest rate for such discounted loans ranged from 6.5 percent (per annum) to 7 percent (per annum). The commercial interest rates ranged from 11.5 percent (per annum) to 12.75 percent (per annum). These commercial interest rates applied to those situations where the CBC had not yet approved the preferential rate, the letter of credit used to secure the preferential rate had expired, or 6 months had expired following the CBC approval of the preferential rate.

Our investigation determined the actual loan amount and the interest paid on a per loan and per manufacturer basis. The amount of benefits received by the four Taiwan manufacturers which benefited from this program ranged from .007 percent to .026 percent for an overall weighted-average *ad valorem* benefit of .0045 percent.

Issues

1. Counsel for the Association and counsel for the Bicycle Manufacturers Association of America, Inc. (BMA), who filed as *amicus curiae* in the court proceeding, contended that even if the preferential income tax ceiling provided significant benefits, it would not constitute a countervailable subsidy. Citing Taiwan's Statute of Encouragement and Investment (SEI), counsel for both argued that the tax ceiling benefit is not industry specific, is generally available to any productive enterprises, and does not deviate from Taiwan's normal tax laws. Counsel for BMA further argued that tax provisions that allow a reduction in a company's tax liability and that are unrelated to export performance are only countervailable if they benefit a specific industry.

Response

Under Article 10 of the SEI, the profit-seeking-enterprise income tax on a "productive enterprise" which had started operation on or before December 31, 1973, was limited to 25 percent. We found that this preferential income tax ceiling rate is not available to all industries and thus constitutes a countervailable subsidy.

The regulations issued to implement the SEI outline eligibility criteria and are clearly written to benefit only certain industries. These regulations specifically list "categories of industries." Businesses which fall within these "categories of industries" are considered to be eligible under the SEI as "productive enterprises." Businesses in some other industries which are not included in this list must meet certain minimum performance levels or development criteria in order to qualify as a "productive enterprise" under the statute, and thus to benefit from the 25 percent maximum tax rate of Article 10 of the SEI. Because only certain categories of industry may benefit from this maximum tax rate, we determine this program to be a countervailable subsidy.

While certain articles of the statute are clearly intended to act as export incentives, we interpret Article 10 to be a broad incentive for increased investment in eligible industries

established prior to a given date. We therefore determine this program to be a domestic subsidy and thus have allocated the tax savings over total sales revenue.

2. Prior to reviewing our final calculations, counsel for the plaintiff raised two issues—(1) the separate computations as shown in the questionnaire response regarding Cheng Shin were computed incorrectly with respect to benefits received under the preferential income tax ceiling and (2) benefits received by the firms under the preferential income tax ceiling program are countervailable.

Plaintiff's counsel argued that Cheng Shin broke out its bicycle tire and tube sales from total sales, contending that its bicycle tire and tube sales were a relatively small percentage of total sales. Those benefits attributable to the bicycle tire and tube sales were then allocated to total sales, rather than to bicycle tire and tube sales. Plaintiff's counsel argued that since bicycle tire and tube sales were broken out from total sales, the savings attributable to bicycle tire and tube sales should have been divided by the value of bicycle tire and tube sales, rather than total sales, in order to obtain the *ad valorem* benefit with respect to bicycle tire and tube sales.

Response

Plaintiff's counsel argued correctly that the amount of tax savings should be allocated to bicycle tire and tube sales and not to total sales in this case. Our final calculations reflect that the *ad valorem* benefit to Cheng Shin was allocated only to bicycle tire and tube sales.

In regard to counsel's contention that the preferential income tax ceiling is countervailable, we have determined that this program is countervailable for the reasons we have stated.

3. Counsel for BMA argued that Commerce erred in its calculations of the non-preferential tax rate by failing to consider certain additional deductions, such as loss carryovers, which counsel argued would have been available under the non-preferential 35 percent tax rate. BMA argued that the failure to take these additional deductions into account exaggerated the benefit received under this program.

Response

We computed the taxes which would have been paid at the non-preferential rate of 35 percent by using the alternative tax formula furnished by the Association's counsel. The alternative tax formula was confirmed by the

cognizant Taiwan tax official as the formula which is used to calculate the tax payable under the 35 percent tax rate.

4. Counsel for BMA argued that Commerce erroneously calculated the regular commercial rate for short-term loans against which the preferential loans were measured. Commerce used commercial rates of 11.5 to 12-75 percent for an average rate of 12.125 percent. Counsel indicated that Commerce instead should have averaged two short-term commercial loans extended to two bicycle tire and tube companies at 11.5 percent and 8.5 percent, respectively. Counsel also argued that Commerce erred in not taking into account the fact that interest rates dropped as low as 10.5 percent on secured loans, and 11.25 percent on unsecured loans.

Response

We used and verified commercial rates furnished in the response by the Association to determine the applicable commercial rates for short-term loans. Those verified commercial loans carried a rate of 11.5 percent to 12.75 percent during 1977, and applied to unsecured loans. Furthermore, the 8.5 percent loan which BMA argued we should have used was a loan from a non-Taiwan bank which carried a 3 percent lower rate of interest than rates charged by Taiwan banks.

Verification

We verified the information used in reaching this determination through on-site examination of the records and audited tax returns of the various companies, and records of the International Commercial Bank of China; meetings with company officials, local tax officials, and bank officials; and examination of randomly selected documents containing information pertinent to this investigation.

Determination

On the basis of information supplied subsequent to the notice of Reopening of Countervailing Duty Investigation published August 3, 1981 in the Federal Register (44 FR 1815), I hereby determine that benefits have been paid by Taiwan authorities under the Preferential Income Tax Ceiling program and the Preferential Export Financing program on the manufacture, production, or exportation of bicycle tires and tubes, but that, with the exception of Cheng Shin, the benefits involve an aggregate amount considered to be *de minimis*. Although the firms investigated received benefits under the two programs re-investigated, the weighted-average *ad*

valorem benefit was only .43 percent and .0045 percent for the preferential income tax ceiling and preferential export financing, respectively.

The final countervailing duty determination of January 8, 1979 found only one other program to be countervailable—deferred payment of duties on imported machinery and equipment. Only one company benefited under this program, a company other than Cheng Shin. Furthermore, this program was not the subject of this reopened investigation. The average *ad valorem* benefit received under that program amounted to only .0118 percent, as stated to the Court in defendant's cross-motion for summary judgment in the current court proceeding. Thus, even when this amount is added to the benefit received under the two programs re-investigated in this reopened investigation, the aggregate *ad valorem* benefit received is .45 percent, which is still *de minimis*. Therefore, with the exception of Cheng Shin, no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) upon the manufacture, production, or exportation of bicycle tires and tubes from Taiwan.

As a result of our review, I hereby determine that bicycle tires and tubes manufactured by Cheng Shin received bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended, since benefits received by Cheng Shin were in an amount considered to be more than *de minimis*. The net amount of the bounty or grant has been ascertained and determined to be 0.893 percent *ad valorem*.

Accordingly, pending an affirmation of the results of this final countervailing duty determination by the U.S. Court of International Trade, we will instruct the U.S. Customs Service to suspend liquidation on entries of bicycle tires and tubes from Taiwan, manufactured by Cheng Shin, if entered or withdrawn from warehouse for consumption on or after October 28, 1981, and if exported after October 28, 1981. We will also instruct the Customs Service to collect a deposit of estimated countervailing duties in the amount of .893 percent *ad valorem* with respect to those entries for which liquidation has been suspended. If the Court affirms this final countervailing duty determination, we anticipate it will order the Department to issue a countervailing duty order with respect to bicycle tire and tubes manufactured by Cheng Shin.

This notice is published pursuant to section 303 of the Act (19 U.S.C. 1303).
Lawrence J. Brady,
Assistant Secretary for Trade Administration.
October 23, 1981.
[FR Doc. 81-31277 Filed 10-27-81; 8:45 am]
BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Dr. William W. Dawson; Modification of Scientific Research Permit

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216) and § 220.24 of the regulations on endangered species (50 CFR Parts 217-227), the Scientific Research Permit No. 250 issued to Dr. William W. Dawson, Professor of Ophthalmology and Physiology, Department of Ophthalmology, J. Hillis Miller Health Center, University of Florida—College of Medicine, Box J-284, Gainesville, Florida 32610 on November 14, 1978 (43 FR 54284) is modified as follows:

Section B-4 is deleted and replaced by:

This Permit is valid with respect to the activities authorized herein until December 31, 1984.

The modification is effective October 28, 1981.

The Permit as modified and documentation pertaining to the modification is available for review in the following offices:

Assistant Administrator for Fisheries,
National Marine Fisheries Service, 3300
Whitehaven Street, N.W., Washington,
D.C.; and
Regional Director, National Marine Fisheries
Service, Southeast Region, Duval Building,
9450 Koger Boulevard, St. Petersburg,
Florida 33702.

Dated: October 22, 1981.

Robert K. Crowell,
Deputy Executive Director, National Marine
Fisheries Service.

[FR Doc. 81-31260 Filed 10-27-81; 8:45 am]
BILLING CODE 3510-22-M

National Bank of Public Works and Services of Acapulco; Modification of Permit

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 273 issued to the National Bank of Public Works and Services of Acapulco, Mexico on

October 17, 1979 (44 FR 61079) is modified in the following manner:
Section C.11 is modified to read:

This Permit is valid with respect to the transportation activities authorized in Section B.2 until December 31, 1986.

This modification is effective on October 28, 1981.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries,
National Marine Fisheries Service, 3300
Whitehaven Street, NW, Washington, D.C.;
Regional Director, Southwest Region,
National Marine Fisheries Service, 300
South Ferry Street, Terminal Island,
California; and
Regional Director, Southeast Region, National
Marine Fisheries Service, Duval Building,
9450 Koger Boulevard, St. Petersburg,
Florida 33702.

Dated: October 21, 1981.

Robert K. Crowell,
*Deputy Executive Director, National Marine
Fisheries Service.*

[FR Doc. 81-31258 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-22-M

Sea World Inc.; Denial of Permit Modification Request

On July 24, 1981, Notice was published in the *Federal Register* (46 FR 38115), that a request had been filed with the National Marine Fisheries Service by Sea World Incorporated, 1720 South Shores Road, Mission Bay, San Diego, California 92109 for a modification to Public Display/Scientific Research Permit No. 252, to take an additional Atlantic bottlenose dolphin (*Tursiops truncatus*) as a replacement for an animal which dies during capture operations.

Notice is hereby given that pursuant to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), after having considered all pertinent information and facts, the National Marine Fisheries Service has determined that the request submitted by Sea World Incorporated should be denied. The decision to deny the request was based solely upon insufficient justification of the need for the additional animal for the research program. The Permit Holder was notified on October 22, 1981.

Documentation relating to this request and permit are available for review in the following offices:

Assistant Administrator for Fisheries,
National Marine Fisheries Service, 3300
Whitehaven Street, NW, Washington, D.C.;
Regional Director, National Marine Fisheries
Service, Southwest Region, 300 South Ferry
Street, Terminal Island, California 90731.

Dated: October 22, 1981.

William G. Gordong,
*Acting Deputy, Assistant Administrator for
Fisheries, National Marine Fisheries Service.*

[FR Doc. 81-31259 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-22-M

Zoological Center, Tel-Aviv Ramat Gan Ltd.; Issuance of Permit

On August 24, 1981, notice was published in the *Federal Register* (46 FR 42708) that an application had been filed with the National Marine Fisheries Service by Zoological Center, Tel-Aviv Ramat Gan Ltd., Ramat Gan 52100, Israel to obtain three (3) California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that on October 20, 1981, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) the National Marine Fisheries Service issued a public display permit for the above activity to Zoological Center subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries,
National Marine Fisheries Service, 3300
Whitehaven Street, NW., Washington, D.C.;
and
Regional Director, National Marine Fisheries,
Service, Southwest Region, 300 South Ferry
Street, Terminal Island, California 90731.

Dated: October 20, 1981.

Richard B. Roe,
*Acting Director, Office of Marine Mammals
and Endangered Species, National Marine
Fisheries Service.*

[FR Doc. 81-31257 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-22-M

Caribbean Fishery Management Council and its Administrative Subcommittee; Meeting Amendment

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of change in meeting dates of the Caribbean Fishery Management Council and its administrative subcommittee.

SUMMARY: The scheduled public meeting dates of the Caribbean Fishery Management Council and its Administrative Subcommittee, as published in the *Federal Register*, October 8, 1981 (46 FR 49938), have been changed as follows:

From: Council meeting convening on Tuesday, November 3, 1981 at approximately 1:30 p.m., and adjourning on Wednesday, November 4, 1981 at approximately noon. Administrative

Subcommittee meeting convening on Tuesday, November 3, 1981 at approximately 9 a.m., adjourning at approximately noon.

To: Council meeting convening on Wednesday, November 4, 1981 at approximately 1:30 p.m., adjourning at approximately 5 p.m.; reconvening on Thursday, November 5, 1981 at approximately 9 a.m., adjourning at approximately noon. Administrative Subcommittee meeting convening on Wednesday, November 4, 1981 at approximately 9 a.m., adjourning at approximately noon.

All other information remains unchanged.

FOR FURTHER INFORMATION CONTACT:

Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, Puerto Rico 00918, Telephone: (809) 753-4926.

Dated: October 23, 1981.

Robert K. Crowell,
*Deputy Executive Director, National Marine
Fisheries Service.*

[FR Doc. 81-31256 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established a Scientific and Statistical Committee, which will meet to discuss outlines for workshop on stability as a management tool; Interim Groundfish Fishery Management Plan (FMP); update on development of Lobster and Scallop FMPS; logbook formats as well as other business.

DATES: The public meeting will convene on Wednesday, November 18, 1981, at approximately 10 a.m. and will adjourn at approximately 5 p.m. The meeting may be lengthened or shortened or agenda items rearranged, depending upon progress of the same.

ADDRESS: The meeting will take place at the Carriage House, Woods Hole Oceanographic Institute, Woods Hole, Massachusetts.

FOR FURTHER INFORMATION CONTACT:

New England Fishery Management Council, Suntaug Office Building, Five Broadway, Route One, Saugus, Massachusetts 01906, Telephone: (617) 231-0422.

Dated: October 23, 1981.

Robert K. Crowell,
Deputy Executive Director, National Marine
Fisheries Service.

[FR Doc. 81-31255 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

New Standard and Exception Price Schedules

The National Technical Information Service (NTIS), an operating unit of the Department of Commerce, has adopted new Standard and Exception Price Schedules to become effective January 1, 1982.

Pursuant to 15 U.S.C. 1151-1157, NTIS operates a clearinghouse for the collection and public sale of scientific, technical and other specialized reports. They are prepared by Government agencies, their contractors and grantees, and by Special Technology Groups. 15 U.S.C. 1153 authorizes NTIS to issue schedules of fees and requires the agency to sell its reports on a self-supporting basis so that "the general public shall not bear the cost of publications and other services which are for the special use and benefit of private groups and individuals."

NTIS has determined that new Standard and Exception Price Schedules must be adopted in order to continue recovering the full costs of collecting, printing, and dissemination copies of technical reports. The new schedules are as follows:

STANDARD PRICE SCHEDULE

Code	Page range	Domestic (1)	Foreign (2)
A01.....	(1)	\$4.00	\$8.00
A02.....	001-025	6.00	12.00
A03.....	026-050	7.50	15.00
A04.....	051-075	9.00	18.00
A05.....	076-100	10.50	21.00
A06.....	101-125	12.00	24.00
A07.....	126-150	13.50	27.00
A08.....	151-175	15.00	30.00
A09.....	176-200	16.50	33.00
A10.....	201-225	18.00	36.00
A11.....	226-250	19.50	39.00
A12.....	251-275	21.00	42.00
A13.....	276-300	22.50	45.00
A14.....	301-325	24.00	48.00
A15.....	326-350	25.50	51.00
A16.....	351-375	27.00	54.00
A17.....	376-400	28.50	57.00
A18.....	401-425	30.00	60.00
A19.....	426-450	31.50	63.00
A20.....	451-475	33.00	66.00
A21.....	476-500	34.50	69.00
A22.....	501-525	36.00	72.00
A23.....	526-550	37.50	75.00
A24.....	551-575	39.00	78.00
A25.....	576-600	40.50	81.00

¹ Microfiche.

NOTE.—Add \$1.50 to the domestic price and \$3.00 to the foreign price for each additional 25-page increment (or portion thereof) by which a report exceeds 600 pages in length.

(1) United States, Canada, Mexico.

(2) All other addresses.

Certain NTIS products (including subscriptions, standing orders, SRIM, domestic microfiche, and the like) the costs to NTIS of which may be substantially higher or lower than typical technical reports are specially priced as "exceptions" to the Standard Price Schedule.

EXCEPTION PRICE SCHEDULE

Code	Domestic (1)	Foreign (2)
E01.....	\$6.50	\$13.50
E02.....	7.50	15.50
E03.....	9.50	19.50
E04.....	11.50	23.50
E05.....	13.50	27.50
E06.....	15.50	31.50
E07.....	17.50	35.50
E08.....	19.50	39.50
E09.....	21.50	43.50
E10.....	23.50	47.50
E11.....	25.50	51.50
E12.....	28.50	57.50
E13.....	31.50	63.50
E14.....	34.50	69.50
E15.....	37.50	75.50
E16.....	40.50	81.50
E17.....	43.50	87.50
E18.....	46.50	93.50
E19.....	51.50	102.50
E20.....	61.50	123.50

(1) United States, Canada, Mexico.

(2) All other addresses.

United States, Canada, and Mexico prices are charged for orders shipped within the United States of America, including its territories and possessions, and to Canada or Mexico. Foreign prices are charged for orders shipped elsewhere.

Inquiries concerning the new Standard and Exception Price Schedules may be directed to Dr. Melvin J. Josephs, Director, Office of Government Agency Support, NTIS, Springfield, VA 22161 (703) 487-4734.

Melvin S. Day,

Director.

[FR Doc. 81-31270 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-04-M

Cooper Biomedical, Inc.; Intent To Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Cooper Biomedical, Inc. having a place of business at Palo Alto, California 94304, an exclusive right in the United States to manufacture, use and sell products embodied in the invention, "Monoclonal Antibodies Against Herpes Simplex Virus (HSV) Types 1 and 2, Nucleocapsids and Kit," U.S. Patent Application No. 6-181,954 (dated March 23, 1981). The availability of this invention for licensing was announced in the Federal Register (46 FR 30522, June 6, 1981). Copies of the Patent Application may be obtained from the Office of Government Inventions and

Patents, NTIS, Box 1423, Springfield, VA 22151. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Health and Human Services. Custody of the entire right, title and interest to this invention has been transferred to the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-41.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, at the address above. NTIS will maintain and make available for public inspection a file containing all inquiries, comments and other written materials received in response to this Notice and a record of all decisions made in this matter.

Dated: October 16, 1981.

Douglas J. Campion,

Office of Government Inventions and Patents,
National Technical Information Service, U.S.
Department of Commerce.

[FR Doc. 81-31146 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Authorization of Additional Official of the Government of Pakistan To Issue Export Visas and Exempt Certifications for Certain Cotton Textiles and Cotton Textile Products From Pakistan

October 23, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: The Government of Pakistan has notified the Government of the United States that M. Adil Siddiqi is authorized to issue export visas and exempt certifications for cotton textiles and cotton textile products from Pakistan.

EFFECTIVE DATE: October 23, 1981.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-2184).

SUPPLEMENTARY INFORMATION: On July 7, 1972 a letter dated June 28, 1972 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the Federal Register (37 FR 13365) which established an export visa requirement for cotton textiles and cotton textile products, produced or manufactured in Pakistan and exported to the United States. One of the requirements is that the visas must be signed by an official authorized by the Government of Pakistan to issue visas.

On May 30, 1973 and January 18, 1974, letters were published in the Federal Register (38 FR 14184 and 39 FR 2293) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, announcing establishment of an administrative mechanism to certify for exemption from the levels of restraint of the bilateral cotton textile agreement between the Governments of the United States and Pakistan certain handloomed and folklore products of the cottage industry of Pakistan. To qualify for exemption each shipment of exempt cotton textile products must be accompanied by a signed certification. The Government of Pakistan has requested that the name of M. Adil Siddiqi be added to the list of officials currently authorized to issue export visas and exempt certifications. A complete list of officials so authorized follows this notice.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Officials of the Government of Pakistan Authorized To Issue Export Visas and Exempt Certifications for Certain Cotton Textiles and Cotton Textile Products Exported to the United States

Abid Javed Akbar
Shaikh Bashir Ahmed
Shafiq Ahmad Bajwa
M. Y. Bhutta
Muhammad Ashraf Khan
Zahid Hussain Khan
Taj Mohammad Khan
M. Zafar Umar Khan
Abdul Wahab Khan
Abdul Malik
Allah Rakha
M. Adil Siddiqi
S. M. H. Tirmizi

[FR Doc. 81-31157 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-25-M

Increase in Import Restraint Levels for Certain Cotton Textile Products From Pakistan

October 22, 1981.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing to 457,143 dozen pairs the consultation level for cotton gloves and mittens in Category 331 and to 84,270 dozen for women's, girls' and infants' cotton trousers in Category 348, produced or manufactured in Pakistan and exported during the eighteen-month period which began on January 1, 1981. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), and October 5, 1981 (46 FR 48963).)

SUMMARY: Under the terms of the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan, agreement has been reached to increase the consultation levels for cotton textile products in Categories 331 and 348 during the agreement period which began on January 1, 1981 and extends through June 30, 1982.

EFFECTIVE DATE: October 28, 1981.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-2184).

SUPPLEMENTARY INFORMATION: On December 24, 1980 there was published in the Federal Register (45 FR 85140) a letter dated December 19, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton textile products, including Categories 331 and 348, produced or manufactured in Pakistan and exported to the United States during the eighteen-month period which began on January 1, 1981 and extends through June 30, 1982. In accordance with the terms of the bilateral agreement the United States Government has agreed to increase the consultation levels for textile products in Categories 331 and 348. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the levels to the designated amounts.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

October 22, 1981.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 19, 1980 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufactured in Pakistan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on October 28, 1981, and for the eighteen-month period beginning on January 1, 1981 and extending through June 30, 1982, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 331 and 348, produced or manufactured in Pakistan in excess of the following adjusted eighteen-month levels of restraint:

Category	Amended 18-mo. level of restraint ¹
331.....	457,143 dozen pairs.
348.....	84,270 dozen.

¹ The levels of restraint have not been adjusted to account for any imports after December 31, 1980.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 953. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 81-31156 Filed 10-27-81; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group B (Mainly Low Power Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session 10 December 1981, at Eagle Research, 1925 North Lynn Street, Arlington, Virginia 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The low power device area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c) (1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

*OSD Federal Register Liaison Officer,
Washington Headquarters Services,
Department of Defense.*

October 23, 1981.

[FR Doc. 81-31151 Filed 10-27-81; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Commission on Excellence in Education; Meetings

AGENCY: National Commission on Excellence in Education.

ACTION: Notice of Meetings.

SUMMARY: This notice sets forth the schedule of meetings of the National Commission on Excellence in Education. The first two meetings are of ad hoc planning committees that will be discussing various sections of the Commission Charter. The third is a full Commission meeting. Notice of these meetings is required under Section 10(a) (2) of the Federal Advisory Committee Act.

DATES: November 6, 1981 (9:00 a.m. until 5:15 p.m.); November 16, 1981 (9:00 a.m. until 5:15 p.m.); December 7, 1981 (9:00 a.m. until 5:15 p.m.).

ADDRESSES: *November 6, 1981*, Marriott Hotel, 555 Canal Street, New Orleans, Louisiana; *November 16, 1981*, Science Museum of Minnesota, 10th & Wabasha, St. Paul, Minnesota; *December 7, 1981*, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Milton Goldberg, Executive Director, (202) 254-5750 or Betty Baten, Program Assistant, (202) 254-7180, 1200 19th Street, N.W., Washington, D.C. 20208.

SUPPLEMENTARY INFORMATION: The National Commission on Excellence in Education is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90-247 as amended; 20 U.S.C. 1233 *et seq.*) and the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix I) which set forth standards for the formation and use of advisory committees. The Commission is established to advise and make recommendations to the nation and to the Secretary of Education.

An ad hoc planning committee of the Commission will meet on November 6 in New Orleans, Louisiana at the Marriott Hotel, 555 Canal Street. Members of this committee are Norman Francis, Anne Campbell, Shirley Gordon, Gerald Holton, Margaret Marston, Francisco Sanchez, Robert Haderlein and Richard Wallace.

This committee will discuss the following elements of the Charter.

#3: study a representative sampling of university and college admission standards and lower division course requirements with particular reference to the impact upon the enhancement of quality and the promotion of excellence such standards may have on high school curricula and on expected levels of high school academic achievement;

#4: review and to describe educational programs that are recognized as preparing students who consistently attain higher than average scores in college entrance examinations and who meet with uncommon success the demands placed on them by the nation's colleges and universities;

#6: hold hearings and to receive testimony and expert advice on efforts that could and should be taken to foster higher levels of quality and academic excellence in the nation's schools, colleges, and universities; and

#7: define the problems of and the barriers to attaining greater levels of excellence in American education.

Another ad hoc planning committee will meet in St. Paul, Minnesota at the Science Museum, 10th and Wabasha. Members of the committee are William O. Baker, Emeral Crosby, Charles A. Foster, Jr., A. Bartlett Giamatti, Jay Sommer, Annette Kirk, Glenn Seaborg, and Albert H. Quie.

This committee will be discussing the following elements of the Charter.

#1: review and synthesize the data and scholarly literature on the quality of learning and teaching in the nation's schools, colleges, and universities, both public and private;

#2: examine and compare contrast of the curricula, standards, and expectations of the education systems of several advanced countries with those of the United States.

#5: review the major changes that have occurred in American education as well as events in society during the past quarter century that have significantly affected educational achievement.

#7: define the problems of and the barriers to attaining greater levels of excellence in American education.

Commission Chairman David P. Gardner and Vice-Chairman, Yvonne Larsen will attend both meetings.

At the December meeting in Washington, Commission members will discuss the entire Charter and plans for staff and member activities.

The meetings of the Commission are open to the public. The public is being given less than fifteen days notice for the November 6 meeting because the sites of the meetings had not been selected.

Records are kept of all Commission proceedings, and are available for public inspection at the office of the National Commission on Excellence in Education, 1200 19th Street, N.W., from the hours of 8:00 a.m. to 5:00 p.m.

Dated: October 23, 1981.

Donald J. Senese,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 81-31041 Filed 10-27-81; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[OFC Case Nos. 56358-9016-01, 02-12; Docket No. ERA-FC-81-10]

Phillips Petroleum Co.; Extension of comment period

AGENCY: Economic Regulatory Administration Department of Energy.

ACTION: Phillips Petroleum Company; Extension of Comment Period on Tentative Staff Analysis.

On April 9, 1981, Phillips Petroleum Company (Phillips) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order exempting two major fuel burning installations (MFBI) being installed at its Borger, Texas, refinery, from the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, (FUA or the Act), which prohibit the use of petroleum and natural gas as a primary energy source in certain new MFBI's unless an exemption for such use has been granted by DOE.

ERA accepted the petition on May 30, 1981, and published notice of its acceptance, together with a statement of the reasons set forth in the petition for requesting the exemptions, in the *Federal Register* On June 9, 1981 (46 FR 30525). Publication of the notice commenced a 45-day public comment

period pursuant to section 701 of FUA which expired July 24, 1981.

On September 18, 1981, ERA published a notice of availability of a tentative staff analysis (46 FR 46379). On October 14, 1981 Phillips requested that ERA extend the 14-day public comment period following publication of the tentative staff analysis, and ERA has determined to grant Phillips' request. ERA hereby gives notice that it has extended the period during which it will accept public comment from October 2, 1981 to December 7, 1981.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW, Room 3128, Washington, D.C. 20461, Phone (202) 653-4477.

Richard A. Ransom, Acting Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory

Administration, 2000 M Street, NW, Room 3128, Washington, D.C. 20461, Phone (202) 653-4500.

Marilyn Ross, Attorney, Office of General Counsel, Department of Energy, 1000 Independence Avenue, Washington, D.C. 20585, Phone (202) 252-2967

Issued in Washington D.C., October 19, 1981.

Robert L. Davies,

Director, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-31182 Filed 10-27-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed Week of September 28 through October 2, 1981

During the week of September 28 through October 2, 1981, the appeals and applications for exception or other relief

listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

October 21, 1981.

George B. Breznay,

Director, Office of Hearings and Appeals.

SUBMISSION OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Sept. 28 Through Oct. 2, 1981]

Date	Name and location of applicant	Case No.	Type of submission
Sept. 30, 1981	Navajo Refining Company, Washington, D.C.	BER-0166	Request for Modification/Rescission. If granted: The March 21, 1981 Decision and Order (Case No. BEX-0131) and the April 13, 1981 Decision and Order (Case No. BEX-0189) issued to Navajo Refining Company by the Office of Hearings and Appeals would be modified regarding the January 1981 Entitlements Notice, and Navajo would be reimbursed for excessive entitlements payments.
Do	do	BEG-0062	Petition for Special Redress. If granted: Navajo Refining Company would be reimbursed for excessive entitlements payments made pursuant to the March 21, 1981 Decision and Order (Case No. BEX-011) and the April 13, 1981 Decision and Order (Case No. BEX-0189) Regarding the January 1981 Entitlements Notice.
Do	Office of Enforcement/A-1 Arco, San Francisco, Calif.	BRR-0164	Request for Modification. If granted: The July 31, 1981 Remedial Order (BRO-09-0152) issued to A-1 Arco by the Western Regional Center of the Office of Hearings and Appeals would be modified with respect to the computation of interest charges.
Do	Office of Enforcement/Cardoza Service, San Francisco, Calif.	BRR-0163	Request for Modification. If granted: The August 4, 1981 Remedial Order (BRO-09-0165) issued to Cardoza Service by the Western Regional Center of the Office of Hearings and Appeals would be modified with respect to the computation of interest charges.
Do	Office of Enforcement/Sherwood Garden Chevron, San Francisco, Calif.	BRR-0165	Request for Modification. If granted: The August 12, 1981 Remedial Order (Case No. BRO-09-0152) issued to Sherwood Garden Chevron by the Western Regional Center of the Office of Hearings and Appeals would be modified with respect to the computation of interest charges.
Do	Office of Special Counsel (Texaco), Washington, D.C.	BRZ-0110	Request for Interlocutory Order. If granted: The Office of Special Counsel's request that portions of the affidavit of Grover E. Murray and O. R. Carter be stricken from the records of the remedial order proceeding involving Texaco, Inc. (Case No. DRO-0199) would be granted.
Do	do	BRD-0131	Motion for Discovery. If granted: Discovery would be granted to The Office of Special Counsel in connection with the Statement of objections submitted in response to the Proposed Remedial Order issued to Texaco, Inc. (Case No. DRO-0199)
Do	TOSCO Corporation, Washington, D.C.	BEG-0063	Petition for Special Redress. If granted: The Office of Hearings and Appeals would determine whether interest should be paid by all firms listed as purchasers of entitlements on the Entitlements Notice for January 1981.
Sept. 28, 1981	Murphy Oil Corporation, Washington D.C.	BRZ-0109	Interlocutory Order. If granted: Murphy Oil Corporation would be granted relief from a stipulation made at an April 22, 1981 hearing.
Do	Philbro Corporation, Washington D.C.	BFA-0750	Appeal of Information Request Denial. If granted: The August 28, 1981 Information Request Denial issued by the Economic Regulatory Administration would be rescinded and Philbro Corporation would receive access to copies of certain documents relating to the Notice of Probable Violation issued to the firm on November 28, 1980.
Sept. 30, 1981	Commonwealth Propane Company, Washington, D.C.	BFA-0751	Appeal of Information Request Denial. If granted: The August 27, 1981 Information Request Denial issued by the Office of Enforcement of the Economic Regulatory Administration would be rescinded and Commonwealth Propane Company would receive access to certain DOE information.

NOTICES OF OBJECTION RECEIVED

[Week of Sept. 25, 1981 to Oct. 2, 1981]

Date	Name and location of applicant	Case No.
Sept. 28, 1981	Tosco Corp., Washington, D.C.	BEE-1640.

[FR Doc. 81-31161 Filed 10-27-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[TSH-FRL-1970-5; OPTS-51338]

Certain Chemicals; Premanufacture Notices**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of two PMNs and provides a summary of each.

DATES: Written comments by: PMN 81-532 and 81-533—December 19, 1981.

ADDRESS: Written comments, identified by the document control number "[OPTS-51338]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460 (202-755-5687).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460 (202-426-2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81-532

Close of Review Period. January 18, 1982.

Manufacturer's Identity. Claimed confidential business information.

Organization information provided:

Annual sales—Between \$100 and \$499 million.

Manufacturing site—Western region.

Standard Industrial Classification Code—282.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Tetrafunctional secondary aromatic amine.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a resin catalyst.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	454	2,000
2d year	2,000	10,000
3d year	2,000	10,000

Physical/Chemical Properties. No dated were submitted.

Exposure. The manufacturer states that during manufacture and use dermal exposure may occur during transfer, packaging, weighing and dispensing.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/yr will be released to the land. Disposal is to an approved landfill.

PMN 81-533

Close of Review Period. January 18, 1982.

Manufacturer's Identity. E. I. du Pont de Nemours and Company, Inc., 1007 Market Street, Wilmington, DE 19898.

Specific Chemical Identity. Titanium (4) diisopropoxide disubstituted complex.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an additive used in the energy production industry.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Viscous liquid.

Specific gravity—1.03 (25° C/25° C).

Solubility: water—Soluble.

Flash point (PMCC)—55°/13° C.

Toxicity Data

Acute oral toxicity LD₅₀ (rat)—5,868 mg/kg.

Skin irritation (rabbit)—Mild irritation.

Eye irritation (rabbit)—Severe irritation.

Exposure. The manufacturer states that dermal, inhalation and ingestion

exposure may occur during sampling and transfer.

Environmental Release/Disposal. Disposal is by on-plant incineration.

Dated: October 22, 1981.

Woodson W. Bercaw,
Acting Director, Management Support Division.

[FR Doc. 81-31279 Filed 10-27-81; 8:45 am]

BILLING CODE 6560-31-M

[PH-FRL-1970-7; PP 1G2431/T327]

Hybridizing Agent Potassium; Establishment of Temporary Tolerance**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the chemical hybridizing agent potassium 1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-oxo-pyridazine-3-carboxylate and its related metabolite in or on the raw agricultural commodity wheat (second generation grown out of the hybrid seed and untreated male parent) at 1.0 part per million (ppm).

DATE: This temporary tolerance expires October 18, 1982.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245 CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, has requested the establishment of a temporary tolerance for residues of the chemical hybridizing agent potassium 1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-oxo-pyridazine-3-carboxylate and its related metabolite in or on wheat (second generation grown out of the hybrid seed and untreated male parent) at 1.0 ppm.

This temporary tolerance will permit the continued marketing of the above raw agricultural commodity when treated in accordance with the

provisions of experimental use permit 707-EUP-95 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the chemical hybridizing agent be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of chemical hybridizing agent to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm and Haas Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires October 18, 1982. Residues not in excess of 1.0 ppm remaining in or on wheat after this expiration date will not be considered actionable if the chemical hybridizing agent is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this chemical hybridizing agent indicate that such revocation is necessary to protect the public health.

As required by Executive Order 12291, EPA has determined that this temporary tolerance is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this temporary tolerance from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: October 19, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-31278 Filed 10-27-81; 8:45 am]

BILLING CODE 6560-32-M

[A-FRL-1971-1]

Science Advisory Board, Clean Air Scientific Advisory Committee (CASAC); Open Meeting

Under Pub. L. 92-463 notice is hereby given of a meeting of the Clean Air Scientific Advisory Committee of the Science Advisory Board. The meeting will be held November 16-18, 1981, starting at 9:00 am November 16, at the Springfield Hilton Hotel, 6550 Loisdale Road, Springfield, Va. A major purpose of the meeting is to allow the Committee to review and provide its advice on EPA's Preliminary Assessment of Health and Welfare Effects Associated With Nitrogen Oxides for Standard Setting Purposes: Revised Draft Staff Paper. The Staff Paper is available for public inspection and copying by asking for OAQPS document 78-9 in the EPA Central Docket Section, Gallery 1, West Tower Lobby, EPA Headquarters, 401 M Street, SW, Washington, D.C. Further information pertaining to the Draft Staff Paper can be obtained by writing or calling Mr. Michael Jones, Office of Air Quality Planning and Standards, MD-12, EPA, Research Triangle Park, N.C. 27711, (919) 541-5531.

A second major purpose of the meeting is to complete CASAC's review of EPA's revised Air Quality Criteria Document for Sulfur Oxides/Particulate Matter. This document is available for public inspection and copying by asking for ECAO-CD-79-1, Index 2AD.20 in the EPA docket, Room 2903 B of Waterside Mall, EPA Headquarters. Additional information may be obtained by writing or calling Ms. Diane Chappell, Environment Criteria and Assessment Office, MD-52, EPA, Research Triangle Park, N.C. 27711, (919) 541-3637.

Another major issue on the CASAC agenda is to allow the Committee to review and provide its advice to EPA on the revised draft document of EPA's National Ambient Air Quality Standard for Particulate Matter: Draft Staff Paper. This Staff Paper is available for public inspection and copying by asking for OAQPS document A-79-29 in the EPA Central Docket Section, Gallery I, West Tower Lobby, EPA Headquarters. Further information pertaining to the Draft Staff Paper can be obtained by writing or calling Mr. John Haines, Office of Air Quality Planning and

Standards, MD-12, EPA, Research Triangle Park, NC 27711, (919) 541-5531.

The CASAC agenda also includes discussion of the status of EPA's proposals to revise the ambient air quality standards for carbon monoxide and hydrocarbons, and CASAC review and advice on a plan for development of a revised ozone criteria document. Copies of written materials to be discussed in relation to the development plan for the ozone criteria document will be made available to the public at the CASAC meeting.

The meeting is open to the public. Any member of the public wishing to obtain information of participate should contact Dr. Terry F. Yosie, EPA, Science Advisory Board, (202) 755-0263, by close of business November 9, 1981. Members of the public wishing to make formal statements at the meeting should provide a written summary of their remarks to Dr. Terry F. Yosie by close of business November 9, 1981.

Terry F. Yosie,

Acting Director, Science Advisory Board.

October 21, 1981.

[FR Doc. 81-31275 Filed 10-27-81; 8:45 am]

BILLING CODE 6560-36-M

[OPP-50548; PN-FRL-1970-6]

Renewal of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT:

The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

239-EUP-77. Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. This experimental use permit allows the use of 8,800 pounds of the herbicide thiobencarb on rice to evaluate the control of watergrasses and sprangletop

weeds. A total of 2,200 acres are involved. The program is authorized only in the States of California, Florida, Louisiana, and Mississippi. The permit was previously effective from January 1, 1979 to May 31, 1980. It is now effective from April 3, 1981 to June 30, 1982. A temporary tolerance for residues of the active ingredient and its metabolite in or rice grain has been established. (Richard F. Mountfort, PM 23, Rm. 412, CM#2, (703-557-7070))

38412-EUP-1. Pineapple Growers Association of Hawaii, 1902 Financial Plaza of the Pacific, Honolulu, HI 96813. This experimental use permit allows the use of 30,000 pounds of nematocide ethyl 3-methyl-4-(methylthio)phenyl(1-methylethyl)phosphoramidate on pineapples to evaluate control of nematodes. A total of 3,000 acres are involved. The program is authorized only in the State of Hawaii. The permit was previously effective from August 31, 1977 to August 31, 1980. It is now effective from April 24, 1981 to August 31, 1985. A temporary tolerance for residues of the active ingredient and its metabolite in or on pineapples and a food additive regulation for residues of the active ingredient and its metabolite on dried pineapple bran have been established. (Henry Jacoby, PM 21, Rm. 418, CM#2, (703-557-7060))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: October 19, 1981.

Douglas D. Campt,
Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-31280 Filed 10-27-81; 8:45 am]

BILLING CODE 6560-32-M

[AH-FRL-1970-6]

Extension of Time To Consider Application for a Fuel Waiver

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice extends, by 16 days, the time for the Administrator to act on an application for a fuel waiver submitted by Atlantic Richfield Company.

FOR FURTHER INFORMATION CONTACT: James Caldwell, Chief, Fuels Section, Field Operations and Support Division (EN-397), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Telephone number (202) 382-2635.

SUPPLEMENTARY INFORMATION: On April 27, 1981, EPA received from Atlantic Richfield Company (ARCO) an application for waiver of the prohibitions in section 211(f)(1) of the Clean Air Act (Act), 42 U.S.C. 7545(f)(1), for a blend of unleaded gasoline with methanol and tertiary butyl alcohol, such that a maximum ratio by volume of one methanol to gasoline grade tertiary butyl alcohol is not exceeded and a maximum concentration of up to 3.5 weight percent oxygen in the finished gasoline is observed. See 46 FR 32313 (June 22, 1981). Under section 211(f)(4) of the Act, the 180-day period for the Administrator to grant or deny the waiver expires October 24, 1981.

Additional time is needed for EPA to complete its review. ARCO and EPA have therefore agreed to extend the 180-day period by an additional 16 days, until November 9, 1981. ARCO's letter addressing the extension has been placed in the public docket for the application. The docket, EN-81-10, is located at the Central Docket Section (A-130) of the Environmental Protection Agency, Gallery I—West Tower, 401 M Street, S.W., Washington, D.C. 20460, and is available for inspection between the hours of 8:00 a.m. and 4:00 p.m. As

provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

If additional information is provided to EPA during the 16-day extension bearing upon ARCO's application, it will be placed in the docket as well.

Dated: October 23, 1981.

Anne M. Gorsuch,
Administrator.

[FR Doc. 81-31251 Filed 10-27-81; 8:45 am]

BILLING CODE 6560-26-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 81-482]

Motions of Cincinnati Bell Inc. and Southern New England Telephone Companies To Remove Uncertainty of Their Respective Statutes Under the Commission Decisions in the Second Computer Inquiry; Memorandum Opinion and Order

AGENCY: Federal Communications Commission.

ACTION: Order denying motions for exemption.

SUMMARY: Commission denies Cincinnati Bell Inc. and Southern New England Telephone Company motions for exemption from the Computer II structural separation requirements imposed on AT&T and its carrier affiliates. This action requires that the two Bell System telephone companies in which AT&T holds only a minority interest offer enhanced services and customer-premises equipment only through a fully separated subsidiary. The motions were denied on the grounds that CBI and SNET were found to be indistinguishable from the other Bell operating companies in any meaningful manner for purposes of the Second Computer Inquiry and its implementation.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: James W. McConnaughey, Policy and Program Planning Division, Common Carrier Bureau, Federal Communications Commission, Washington, DC 20554, Telephone No. (202) 632-9342.

SUPPLEMENTARY INFORMATION:

Adopted: October 7, 1981.

Released: October 20, 1981.

By the Commission:

1. We have before us motions for declaratory ruling filed by Cincinnati Bell Inc. (CBI) and Southern New England Telephone Company (SNET). Each company seeks relief from the structural separation requirements imposed upon affiliates of the American Telephone and Telegraph Company (AT&T) in the *Second Computer Inquiry*.¹ In the alternative each company has requested an extension of the time by which it must comply with these requirements. For the reasons set forth below, we deny both motions.

I. Background

2. Through the *Second Computer Inquiry* we have ordered a restructuring of the telecommunications industry. In a series of three orders, the last of which we adopted today,² we have required carriers to alter both the manner and the means by which they provide services and equipment to their customers.

3. First we have adopted a basic/enhanced dichotomy for characterizing services provided over telecommunications network facilities. Only basic services will be regulated under Title II of the Communications Act of 1934, 47 U.S.C. § 201 *et seq.* Secondly, we have ordered the detariffing of all carrier-provided customer-premises equipment (CPE). As of January 1, 1983, carriers may offer new CPE only on a detariffed basis.³ A carrier must remove the remainder of its CPE from its rate base and detariff its offering of such equipment only after the completion of an implementation

proceeding in which we shall address the manner and time period in which to "deregulate" the provision of embedded CPE.⁴

4. The new rules require carriers under the direct or indirect control of AT&T to offer enhanced services and new CPE only through a separate subsidiary. We reached this decision only after determining that "consumers would be best served if the separate subsidiary mechanism were imposed only where essential to assure the objectives of the [Communications] Act." *Reconsideration Order*, 84 FCC 2d at 72. To determine whether structural separation should be imposed upon specific carriers we performed a cost-benefit analysis in which we weighed the following factors:

(a) A carrier's ability to engage in anticompetitive activity through control over 'bottleneck' facilities * * *;

(b) A carrier's ability to engage in cross-subsidization to the detriment of the communications ratepayer;

(c) The integrated nature of the carrier and affiliated entities, with special emphasis upon research and development and manufacturing capabilities that are used in conjunction with, or are supported by, communications derived revenues; and

(d) The carrier's possession of sufficient resources to enter the competitive market through a separate subsidiary.

Id. For carriers other than AT&T we concluded that the benefits of imposing separation requirements did not outweigh other public interest considerations. We chose to wait to see if any competitive abuses develop which warrant broader application of the separate subsidiary structure for either enhanced services or CPE. For carriers "affiliated with AT&T," however, we concluded that structural separation was required to adequately protect the communications ratepayer.

5. On February 11, 1981, Cincinnati Bell Inc. filed a motion for declaratory ruling with this Commission. In that motion CBI requested a ruling that it was not our intent in the *Second Computer Inquiry* to impose structural separation requirements upon CBI. As alternative relief the carrier asked that we waive these requirements in light of the showing made in its motion. If we would grant neither form of relief, CBI sought an extension of the date by which it must establish a separate subsidiary to participate in the CPE and enhanced services markets. On February 20, 1981, Southern New England Telephone Company filed a motion for declaratory ruling seeking for itself relief similar to that sought by CBI.

⁴ See *Further Reconsideration Order* at paras. 18-19.

Because both carriers not only seek similar relief but also muster similar arguments to support their requests, we have chosen to rule upon both motions in a single proceeding.

6. Seven parties filed comments in this proceeding. Of the seven, one responded to only the SNET motion, one responded to the motions in separate but similar filings, and each of the remainder submitted a single set of comments addressing both motions.⁵ SNET, CBI and IDCMA filed reply comments.

II. Discussion

7. ADAPSO, ATAE, MCI and IDCMA assert that both the CBI and the SNET motions are procedurally defective.⁶ ADAPSO, ATAE, and MCI conclude that the motions are more properly treated as petitions for reconsideration. ATAE states that because there is neither controversy nor uncertainty concerning our intent to apply structural separation requirements to AT&T and "carriers under [its] direct or indirect common control," relief to CBI and SNET through a declaratory ruling would be inconsistent with both our rules and the Administrative Procedures Act.⁷ ADAPSO argues that CBI and SNET have provided no explanation for their failure to bring before us on a timely basis the facts upon which they rely to support their motions. ADAPSO Opposition at 6. ADAPSO concludes that we should dismiss the motions, regarded as petitions for further reconsideration, for failure to comply with Section 1.429 of our rules. *Id.* MCI states that, as petitions for further reconsideration, the filings were neither timely nor served upon parties to Docket 20828. MCI Opposition at 2. According to MCI, these flaws alone would justify our denying both motions.⁸

8. As we have indicated on other occasions, we look beyond the label a

⁵ Those parties participating in this proceeding are listed in Appendix A and Appendix B. The acronym by which a specific party is identified in this order appears in parentheses to the right of its name in these appendices.

⁶ See Consolidated Opposition of the Association of Data Processing Service Organizations, Inc. (ADAPSO Opposition) at 5-6; Comments on Motion of Cincinnati Bell Inc. for Declaratory Ruling filed by ATAE (ATAE Comments on CBI Motion) at 3; Comments on Motion of Southern New England Telephone Company for Declaratory Ruling filed by ATAE (ATAE Comments on SNET Motion) at 3; MCI Opposition to Motions for Declaratory Ruling (MCI Opposition) at 1-2; Reply filed by IDCMA (IDCMA Reply) at 2.

⁷ ATAE Comments on CBI Motion at 3; ATAE Comments on SNET Motion at 3.

⁸ We note that Section 1.429 of our rules, which sets forth the procedural requirements that a petition for reconsideration must satisfy, does not require a petitioner to serve copies of its petition upon parties to the proceeding. See 47 CFR 1.429(e).

¹ See Amendment of Section 64.702 of the Commission's Rules and Regulations (the *Second Computer Inquiry*), 77 FCC 2d 384 (*Final Decision*), modified on reconsideration, 84 FCC 2d 50, appeal pending sub nom. *C.C.I.A. v. FCC*, Case No. 80-1471 (D.C. Cir. 1980).

² See n.1 above for citations to the first two orders. The third, *Further Reconsideration Order* in Docket No. 20828, which has been adopted today, modifies and clarifies the two earlier orders in areas which have no bearing upon our disposition of the CBI and SNET motions.

³ "New CPE" is that equipment acquired or manufactured by a carrier after January 1, 1983. "Embedded CPE" is that customer-premises equipment which, as of January 1, 1983, is either tariffed at the state level, subject to separations or is tariffed with this Commission. See *Further Reconsideration Order* at paras. 39-45.

party attaches to its pleading to determine its true nature and to judge it accordingly. *See, e.g., Motion for Declaratory Ruling on a Broadcast Station's Promotional Practices*, 54 FCC 2d 388 (1975); *John J. Farina, tr/as mt. Holly—Burlington Broadcasting Co.*, 35 FCC 456, 458 (1963). In this case we agree with those parties who perceive these motions to be, in reality, something other than petitions for declaratory ruling.⁹ We believe, however, that the controversy over whether SNET and CBI are in fact "under the direct or indirect control" for purposes of the *Second Computer Inquiry* warrants our considering the motions on their merits.¹⁰ We also conclude that the motions may properly be treated as petitions for waiver under Section 1.3 of our rules. Section 1.3 states that we may waive any provision of our rules on our own motion or on petition "if good cause therefor is shown." 47 CFR 1.3. AT&T states that we cannot regard the motions as waiver petitions because (1) there was no notice and opportunity to comment on the motions as waiver requests and (2) the carriers identified no specific service for which they sought a waiver. AT&T Comments on CBI Motion at 8; AT&T Comments on SNET Motion at 8. In this case CBI and SNET identified not specific service for which they sought a waiver because they seek a general waiver for all facets of their participation in the enhanced services and CPE markets. Section 1.3 clearly provides for such requests. The Public Notices through which parties were given an opportunity to comment in this proceeding clearly stated that both carriers sought relief from the structural separation requirements imposed upon affiliates of AT&T by our orders in the

Second Computer Inquiry. We believe that this constituted fair and adequate notice to the public of the issues raised by the CBI and SNET motions. Clearly there was opportunity to comment on these issues, of which AT&T has taken full advantage. Thus AT&T can point to no prejudice suffered by it as a consequence of the alleged defect. We conclude, moreover, that because of the action we take today, the notice issue is effectively moot.

Status of CBI and SNET Under the Second Computer Inquiry

9. Both CBI and SNET note that neither the *Final Decision* nor the *Reconsideration Order* mentions them by name in discussing those carriers which would be subject to the structural separation requirements. They argue that the rationale which led us, on reconsideration, to exempt GTE from those requirements compels the conclusion that we likewise did not intend to impose such requirements upon them. They ask that we remove any ambiguity as to their status by affirming their interpretation of our orders in Docket 20828.

10. We in fact did not mention CBI, SNET or any other Bell Operating Company by name in our discussions of structural separation. In the *Final Decision*, however, we believe that we gave more than adequate notice that it was our intent to impose structural separation requirements upon all carriers affiliated with AT&T. In fact we expressly stated our conclusion that "the resale structure and the maximum separation policy are applicable to carriers affiliated with AT&T." *Final Decision*, 77 FCC 2d at 475. We observed:

[A]lthough Section 64.702(c) [section designation later amended] specifically exempts companies of the *Bell System* [from the maximum separation rule], the exception was predicated on the belief that the Bell System would not be offering unregulated services over the telecommunications network. (citation omitted) However, our adoption of a regulatory scheme which distinguishes between basic and enhanced services dictates that current enhanced services offered by * * * the *Bell System* through facilities used in interstate communications be provided pursuant to the resale structure. Moreover, because we are requiring the separation of CPE from the provision of basic services, the *Bell System* * * * will be required to restructure [its] current method of marketing terminal equipment. (emphasis supplied.)

Id. at 487.

11. At other points in the *Final Decision* we indicated that we were imposing separation requirements only

upon carriers "under the direct or indirect control of AT&T." *Id.* at 474, 488. CBI and SNET seize upon our use of this terminology to argue that structural separation should not be imposed upon them. Both note that they are neither wholly-owned nor majority-owned subsidiaries of AT&T. They describe themselves as associated companies of the Bell System joined through license contract agreements¹¹ in a contractual relationship with other members of the Bell System. They claim that without voting control, however, these license contract arrangements do not give AT&T direct or indirect control over them. They stress that AT&T owns no debt issues nor preferred stock of either company. SNET lists other distinctions between itself and the other Bell Operating Companies which it claims demonstrate the absence of AT&T control. Among these differences are the manner in which SNET directors are selected, the SNET employee investment plan in which employees subscribe to SNET rather than AT&T stock, and SNET's (as well as CBI's) exclusion from AT&T's consolidated income tax return. SNET Motion at 6-7. SNET and CBI also maintain employee pension funds separate from the fund maintained by AT&T for all its employees, including those within the remaining Bell Operating Companies. *Id.* at 7. SNET notes that its non-management personnel, unlike those within most of the BOCs, are not covered by a national labor contract negotiated by the Communications Workers of America or the International Brotherhood of Electrical Workers. *Id.*

12. Commenting parties unanimously challenge the carriers' assertion that AT&T does not control them. They argue that control can arise through means other than ownership of a majority of a company's stock.¹² They point to

⁹Under 1.2 of our rules, we may, "on motion or on our own motion issue a declaratory ruling terminating a controversy or removing uncertainty." 47 CFR 1.2. Both CBI and SNET claim uncertainty about their status under the *Second Computer Inquiry* to justify their motions. For reasons set forth in paras. 13-16, we believe that there can be no reasonable uncertainty about our intent in the *Second Computer Inquiry* to impose structural separation requirements upon CBI and SNET. We conclude that a declaratory ruling is not warranted. *See generally* Combined Communications of Oklahoma, Inc., 59 FCC 2d 48, 49 (1976). In any case the issuance of a declaratory ruling lies within our discretion. *Western Union Telegraph*, 88 FCC 2d 575 (1978). We believe that there are more appropriate procedures available to discharge our statutory responsibilities in this case, see discussion in para. 8, and for this reason deny the motions of CBI and SNET insofar as they seek a declaratory ruling.

¹⁰*See, generally*, Amendment of Part 73 of the Commission's Rules With Respect to the Availability of Television Programs Produced by Non-Network Suppliers to Commercial Television Stations and CATV Systems, 59 FCC 2d 1058, 1061 (1978); *Kansas Broadcasters Inc.*, 34 FCC 106, 107 (1983).

¹¹In the Bell System under the license contract arrangement, AT&T's General Department performs a variety of services and functions for the telephone operating companies in return for payments not to exceed a certain percentage of each company's operating revenues. We are currently investigating whether these agreements are reasonable. *See* License Contract Agreements and Other Intrasystem Arrangements of the Major Telephone Systems, 84 FCC 2d 259 (1981) (Notice of Inquiry).

¹²*See, e.g.*, ADAPSO Opposition at 4, 9-19; Request to Deny Declaratory Ruling filed by CBEMA (CBEMA Request) at 6-9; Comments filed by NATA (NATA Comments) at 11-12; Comments filed by SPCC (SPCC Comments) at 5-6. In its Reply, SNET concedes that control can exist without majority ownership. It states that "substantial stock ownership" has been required before we consider one company to be under the direct or indirect common control of another. SNET Reply at 14.

statutes and case law supporting their position.¹³

13. As parties have noted, we have already determined that SNET is a subsidiary of AT&T within the terms of the 1956 Consent Decree. *See, The Connecticut Water Company*, 25 FCC 1367 (1958). Because of its impact upon our decision to grant or to deny the waivers sought by CBI and SNET, we believe that we must address once again, this time within the context of the *Second Computer Inquiry*, the corporate relationship of SNET and CBI to AT&T. The issue before us in *Connecticut Water Company* was whether SNET was a subsidiary of AT&T for purposes of the 1956 Consent Decree which had ended an antitrust suit brought by the Department of Justice against AT&T and its affiliates.¹⁴ Because AT&T at that time held only 21.46 percent of SNET's voting stock, we had first to resolve whether the term "subsidiary," as used in the decree, was intended to denote control based solely upon majority stock ownership or control based upon a variety of devices or arrangements including some stock ownership. After we had concluded that the latter was the proper definition of "subsidiary" for purposes of the 1956 Consent Decree, we had still to determine whether AT&T exerted such control over SNET. We concluded that it did exert such control through "the devices and arrangements which it employs and has with such operating companies." 25 FCC at 1376. Among the devices and arrangements we mentioned were:

Contracts generally; patent control, including patents developed by Bell System companies; control of policy and supervision of actions of operating companies, including selection of company executives, salaries, etc.; license contracts; financial advances to operating companies; and prescription of standard operating practices for the operating companies.

Id. at 1371.

The issue before us now is whether it is still the case that AT&T possesses control over SNET and CBI "by means of the devices and arrangements which it employs and has with such operating companies." 25 FCC at 1376.

14. We conclude that AT&T continues to exert control over its affiliates to the same extent today that it did in 1958. As of December 31, 1980, AT&T holds 29.7

percent of the common stock in CBI and 21.1 percent of the common stock in SNET. AT&T's ownership interest in each company far exceeds the combined ownership interests of the next 29 largest shareholders in each case. *See* 1980 Annual Report of CBI, FCC Form M, at 8-8A; 1980 Annual Report of SNET, FCC Form M, at 8. Both SNET and CBI participate in license contract agreements and the standard supply contract between Western Electric and the Bell Operating Companies. In 1980, CBI and SNET expensed \$6.7 million and \$16.7 million respectively for AT&T general services and licenses. *See* 1980 FCC Forms M filed by CBI and by SNET at 69. In that same year CBI disbursed well over \$50 million to AT&T, Western Electric and Bell Labs for services and equipment while SNET purchased over \$120 million in services and equipment from the three. *See* 1980 FCC Forms M filed by CBI and SNET at 69-71; 1980 Report on Operating Results filed by Western Electric Company at 16. Both receive financial advances as needed from AT&T¹⁵ and comply with changes in standard operating practices prescribed at AT&T.¹⁶

15. SNET has asserted that AT&T must hold a substantial ownership interest before we would find that it controlled its affiliate.¹⁸ To support this claim, SNET cites four Commission proceedings in which we had to determine whether a specific carrier was "directly or indirectly . . . controlled by, or under direct or indirect common control with" a carrier engaged in interstate or foreign communication. 47 U.S.C. 2(b)(2); *see Princeton Telephone Co.*, 3 FCC 264 (1936); *Capital City Telephone Co.*, 3 FCC 289 (1936); *De Kalb-Ogle Telephone Co.*, 3 FCC 239 (1936); *Tri-County Telephone Co.*, 5 FCC 315 (1938). In each of these cases, a Bell Operating Company held no less a percentage of the common stock in the subject of the proceeding than does AT&T in SNET. It is also true that in each case we found that the Bell Operating Company involved did not control the subject carrier directly or indirectly. The inference SNET draws

¹⁵ *See* Proxy Statement of Southern New England Telephone Company, attached as Exhibit E of the CATAS Memorandum, at 12; 1980 Cincinnati Bell Inc. Annual Report at 20-21.

¹⁶ *E.g.*, in 1978 AT&T developed guidelines to restructure the Bell Operating Companies by replacing the emphasis on corporate organization by function with an emphasis on corporate organization by marketing. In late 1978 CBI completed its corporate reorganization to conform to the AT&T guidelines; in early 1979 SNET completed a similar reorganization.

¹⁷ Consolidated Reply of the Southern New England Telephone Company to Comments Filed in Opposition (SNET Reply) at 14.

from our earlier actions is, however, erroneous. In each case we treated "the question of control . . . [as] one which cannot be categorically determined by any mathematical formula and for which the facts and circumstances surrounding each particular case must govern." *Princeton Telephone Company*, 3 FCC at 167; *accord Intra State Telephone Company*, 3 FCC 170, 176 (1936). In each case we looked to see if the subject carrier shared with the Bell Operating Company owning its shares the additional relationships and interdependencies which we have found to exist between AT&T and both SNET and CBI. In each case, only because we found that they were absent did we conclude that control too was absent. *Compare Princeton Telephone Company*, 3 FCC 164, with *Rochester Telephone Corp. v. United States*, 307 U.S. 125 (1939).

16. In sum, under the *Second Computer Inquiry* both CBI and SNET are subject to structural separation requirements if they choose to participate in either the unregulated enhanced services market or the unregulated CPE markets after December 31, 1982. AT&T unmistakably exercises *de facto* control over the two Bell Operating Companies in a variety of ways enumerated in paragraphs 13 and 14.

Waiver Request

17. Because we find both CBI and SNET to be subject to the separation conditions of the *Second Computer Inquiry*, we must now consider their alternative request that we waive those requirements and permit both carriers to participate in the unregulated CPE and enhanced services markets without satisfying the separation conditions which all other AT&T carrier affiliates must meet. Specifically, both carriers assert that the reasoning which led to our lifting the separation requirements from GTE requires that they too be exempt from the requirements. Both carriers compare themselves to GTE in terms of their annual revenues, the size of their operating territories, their share of the CPE and enhanced services markets and their financial resources.¹⁸ On all points, they conclude they are smaller. Each claims that to require it to establish a separate subsidiary would be competitively unfair and economically impractical.¹⁹ Both state that developing a plan under which they could participate in the CPE and

¹³ *See, e.g.*, Memorandum of Connecticut Association of Telephone Answering Services, the Message Center, Inc., Edwards Answering Service, Inc., and DeLong Answerphone Inc. In Response to Motion of Southern New England Telephone Company for Declaratory Ruling (CATAS Memorandum) at 9; MCI Opposition at 4-6; AT&E Comments on CBI Motion at 4-7.

¹⁴ *United States v. Western Electric Company*, Civil Action No. 17-49 (D. N.J. 1956).

¹⁸ CBI Motion at 6, 18-19; SNET Motion at 5, 15-17; SNET Reply at 7-8.

¹⁹ CBI Motion at 9-11; SNET Motion at 9-11.

enhanced services markets through a national AT&T subsidiary would be difficult and time-consuming. CBI Motion at 12-13; SNET Motion at 12. The last alternative they perceive open to them in the absence of a waiver would be for each to forego participation in both markets. CBI Motion at 13; SNET Motion at 12. CBI and SNET assert that this course of action would frustrate the Commission goal of encouraging full and fair competition in both markets. CBI Motion at 13; SNET Motion at 12.

18. In their opposition to the SNET and CBI waiver requests, ADAPSO, NATA, SPCC and MCI focus upon the potential for anticompetitive behavior which they perceive CBI and SNET to share with all the other Bell Operating Companies because of their membership in the Bell System. See ADAPSO Opposition at 9-10, 21; MCI Opposition at 7; NATA Comments at 9-10; SPCC Comments at 7. CATAS asserts that, independent of its relationship with AT&T, SNET should be required to offer CPE and enhanced services only through a separate subsidiary because of its inherent monopoly power within the State of Connecticut. CATAS Memorandum at 15. CATAS joins MCI and NATA in stressing that neither CBI nor SNET satisfies the criteria which led us in the *Second Computer Inquiry* to exempt GTE from structural separation requirements. CATAS Memorandum at 12; MCI Opposition at 6-7; NATA Comments at 6-7. ADAPSO and CATAS express skepticism about the problems SNET and CBI assert they will face either in establishing their own or in participating in AT&T's separate subsidiary. ADAPSO Opposition at 19-21; CATAS Memorandum at 13-15. In its reply, IDCMA echoes the doubts and concerns of ADAPSO. CBEMA believes the waiver requests should be denied at this time because both CBI and SNET have failed to make the showing required to justify waiver. CBEMA Request at 9-10.

19. In assessing the merits of any waiver petition, we require that the petitioner show good cause for the requested departure from our rules.²⁰ Such petitions must be "stated with clarity and accompanied by supporting data, and are not to be subject to perfunctory treatment, but must be given a 'hard look'. . . ." *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969). This close scrutiny is mandated because "the very essence of waiver is the assumed validity of the general rule, and also the applicant's violation unless waiver is granted." *Id.* at 1158. In the *Reconsideration Order*, we had enlarged

upon the type of showing we would require for a waiver of the structural requirements for a specific service.²¹ There we indicated that

petitioners carry the burden of demonstrating that concerns about any cross-subsidization or other anticompetitive effects which may arise from the grant of a waiver are outweighed by the possibility of unreasonable costs upon consumers, or unavailability of services, if the waiver is not granted.

84 FCC 2d at 72. The pending waiver requests are substantially broader in scope than those of which we spoke in the *Reconsideration Order*. For this reason, we believe that the petitioners must make at least as convincing a showing as we would require for a less comprehensive waiver.

20. We have already described the cost-benefit analysis we performed to reach our determination that structural separation should not be imposed upon carriers other than AT&T affiliates. In concluding that GTE affiliates should be excluded from the separate subsidiary resale structure for enhanced services we were swayed by their dependence upon AT&T for almost all of their interstate transmission needs. We expressed concern that structural separation conditions would limit GTE—Telenet's potential as an alternative supplier to AT&T of enhanced services. With respect to CPE, we noted that the territories in which GTE telephone companies operated were predominantly rural. In the absence of more compelling facts, we concluded that for GTE affiliates, costs to the public of separation outweighed the benefits.²² We did, however, find compelling reasons to impose separation conditions upon AT&T and its affiliates. We found that because both the enhanced services and CPE markets are national in scope, AT&T possesses a much greater ability to cross-subsidize the services than do any of the independent telephone companies. We noted, moreover, that AT&T and its affiliates possess vast research and development as well as manufacturing capabilities.

²¹ Later in the order, we also discussed the burden AT&T would bear to justify our waiving the ban upon the separate subsidiary's owning transmission facilities. See *id.* at 78-79.

²² GTE and Telenet, however, still remain subject to the conditions imposed at the time of their merger. See *Application of General Telephone and Electronics Corporation to Acquire Control of Telenet Corporation and its Wholly-Owned Subsidiary Telenet Communications Corporation*, 72 FCC 2d 111 (1979). We are reexamining the need for these safeguards in a separate proceeding. *Monitoring Compliance with Conditions Underlying General Telephone and Electronics Corporations Acquisition of Telenet*, 78 FCC 2d 403 (1980).

21. We have given the petitions of SNET and CBI a "hard look" and have concluded that the grant of a waiver would not be in the public interest. We cannot view CBI and SNET in isolation, as they would have us do. We have already noted that both are under the control of AT&T. The relative size of the AT&T corporate family and the diverse national markets the family serves give each member of the Bell System market power which is disproportionate to its firm or market size. See *Final Decision*, 77 FCC 2d at 467, 470. Our decision to impose structural separation upon AT&T and its affiliates resulted from our viewing the Bell family as an organic whole. The Bell System *in toto* required structural safeguards; the GTE System as a whole did not. It is for this reason that SNET's comparison of its single state market to that of GTE of Hawaii is unpersuasive.²³ Like all the other Bell Operating Companies, CBI and SNET share contractual ties with AT&T, Western Electric and Bell Labs, have managers who have rotated throughout the Bell System, and use the Bell logo. They reap similar advantages from their association with the Bell System and possess a similar potential for anticompetitive behavior.

22. CBI and SNET share in the research, development and manufacturing capabilities of Western Electric. CBI characterizes as a "right" its access to Western Electric's services through the standard supply contract, and suggests the existence of a similar "right" to access Bell Labs through its license contract agreement with AT&T. CBI Motion at 7. SNET and the other twenty-one operating companies enjoy similar access to the products and services of Bell Labs and Western Electric. No independent telephone company has routine access to these products and services. Both carriers assert that they also lack the resources needed to enter the competitive markets through a separate subsidiary. CBI Motion at 15, 18; SNET Motion at 17. Both companies, however, have an established practice of borrowing funds from AT&T as the need for those funds arises.²⁴ This source of funding clearly distinguishes their financial situation from that of any independent telephone company. SNET's comments filed in CC Docket No. 80-742 further undermine its argument that severe constraints on its

²³ SNET Motion at 15. We find similar arguments by CBI equally unpersuasive. See CBI Motion at 6, 10-11.

²⁴ See Proxy Statement of Southern New England Telephone Company, attached as Exhibit E of the CATAS Comments, at 12; 1980 Cincinnati Bell Inc. Annual Report at 20-21.

²⁰ See 47 CFR 1.3 (1979).

resources will prevent its participation through a separate subsidiary in the enhanced services and CPE markets. Assuming that it was truly uneconomical for CBI and SNET to establish their own separate subsidiaries, participation in a Bell national subsidiary does not appear to be foreclosed to either carrier.

23. We regard the likelihood that SNET and CBI will withdraw completely from either the CPE market or the enhanced services market as extremely remote. AT&T has already expressed its intent to establish a national separate subsidiary through which the Bell System will market CPE.²⁵ SNET too, has indicated that it could operate its own separate subsidiary (see comments filed in CC Docket No. 80-742). For these reasons, we perceive that the action we take today will not only protect the ratepayers but also will not harm the stockholders of either CBI or SNET.

24. We recognize the uncertainty created in the telecommunications industry by the many forums in which the debate over policy issues related to communications continues. We do not believe, however, that this uncertainty mandates the waivers CBI and SNET seek. Our focusing upon the historical relationship between AT&T and its affiliates does not, as SNET would suggest, ignore the "realities of the 1980's." See SNET Reply at 15. It is still uncertain whether CBI and SNET will become less or more autonomous from AT&T. To grant the waivers requested on the assumption that the carriers' ties to AT&T will become more tenuous would be to act on the basis of speculative rather than fact. Such action is not warranted in light of the relationship that currently exists between CBI and SNET and the rest of the Bell System, especially in light of our concerns which dictate the structural separation of AT&T's regulated and unregulated activities.

25. We now address both carriers' request that we delay the date by which they must comply with the structural separation requirements. They ask that we take this action if we cannot act promptly on their motions or if we decide to defer a decision on the motions because of the pending antitrust suit brought by the Department of Justice against AT&T and its affiliates.²⁶

Each requests a postponement of the March 1, 1982, deadline by one day for each day that elapses between the date on which it filed its motion and either the date the case is resolved or the date on which we act upon its motion.

26. We find CBI and SNET to be indistinguishable from the other Bell Operating Companies in any meaningful manner for purposes of the *Second Computer Inquiry* and its implementation. We have already determined in the *Further Reconsideration Order* adopted today that we shall delay the date by which these carriers must comply with the structural separation requirements until January 1, 1983. Thus, CBI and SNET will have an additional ten months to reach compliance, an extension of time which exceeds that specifically sought by the petitioners. We believe this particular transition period should afford CBI and SNET ample time to resolve any difficulties encountered in either joining a national Bell separate subsidiary or establishing their own subsidiary. In short, a satisfactory case has not been made for granting these two carriers any extra time beyond that allotted to the other members of the Bell System.

III. Conclusion

27. In this proceeding we have reviewed the request of Cincinnati Bell Inc. and Southern New England Telephone Company for relief from the structural separation requirements imposed in the *Second Computer Inquiry* upon all AT&T carrier affiliates. We have examined the relationships of these two carriers, in which AT&T holds a minority shareholder's interest, with AT&T and its other affiliates. We conclude that while the nature of the affiliations between AT&T and individual members of the Bell System Operating Companies may differ, AT&T nonetheless controls each of these carriers. Because they share in the significant market power which AT&T possesses over most of this country's toll and transmission facilities, and the financial resources which would enable AT&T to establish separate subsidiaries, the members of the Bell System cannot be compared to GTE and the other carriers who are not subject to separation conditions. A case has not been made for treating CBI and SNET

within the Bell System. They noted that the Court had recessed the trial for six weeks to enable the parties to complete and present to the Court a proposed consent decree. See CBI Motion at 19-20; SNET Motion at 18. Subsequently, however, the negotiation efforts failed. At the present time the government has completed presentation of its case in chief and the defense is presenting evidence.

differently from the other Bell Operating Companies relative to structural separation. For this reason we conclude that the structural safeguards developed in the *Second Computer Inquiry* should apply to all Bell Operating Companies, and we deny the relief sought by Cincinnati Bell Inc. and Southern New England Telephone Company.

IV. Ordering Clauses

28. Accordingly, it is ordered, pursuant to Sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i) and 4(j) and Sections 1.2 and 1.3 of the Commission's Rules, 47 C.F.R. §§ 1.2, 1.3, that the motions for declaratory ruling filed by Cincinnati Bell Inc. and Southern New England Telephone Company are denied.

29. It is further ordered that the requests of Cincinnati Bell Inc. and Southern New England Telephone Company for waiver of the structural separation requirements imposed upon them by Sections 64.702(c) and 64.702(d) of the Commission's Rules, 47 C.F.R. §§ 64.702(c)-(d), are denied.

30. It is further ordered that the request of Cincinnati Bell Inc. and Southern New England Telephone Company for enlargement of time to comply with the structural separation requirements appearing in Sections 64.702(c) and 64.702(d) of the Commission's Rules, 47 C.F.R. §§ 64.702(c)-(d), is granted to the extent set forth in this order and is otherwise denied.

31. It is further ordered that the Secretary shall cause a copy of the decision to be published in the **Federal Register**.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix A.—CBI Motion

Comments

Association of Data Processing Service Organizations, Inc. (ADAPSO)
Associated Telephone Answering Exchanges, Inc. (ATAE)
Computer and Business Equipment Manufacturers Association (CBEMA)
MCI Telecommunications Corp. (MCI)
North American Telephone Association (NATA)
Southern Pacific Communications Company (SPCC)

Reply Comments

Cincinnati Bell Inc. (CBI)
Independent Data Communications Manufacturers Association (IDCMA)

²⁵ See 10-K Report for the fiscal year ending December 31, 1980, filed by AT&T with the Securities and Exchange Commission at 5; Petition for Further Reconsideration filed by AT&T in Docket 20828.

²⁶ At the time they filed their motions, both CBI and SNET referred to press reports that settlement negotiations between the Department of Justice and AT&T might affect the status of CBI and SNET

Appendix B.—SNET Motion**Comments**

- *Association of Data Processing Service Organizations, Inc. (ADAPSO)
 - Associated Telephone Answering Exchanges, Inc. (ATAE)
 - *Computer and Business Equipment Manufacturers Association (CBEMA)
- Filing joint comments:
- Connecticut Association of Telephone Answering Services (CATAS)
 - Delong Answerphone Inc.
 - Edwards Answering Services, Inc. Message Center Inc.
 - *MCI Telecommunications Corp. (MCI)
 - *North American Telephone Association (NATA)
 - *Southern Pacific Communications Company (SPCC)

Reply Comments

- Southern New England Telephone Company (SNET)
 - *Independent Data Communications Manufacturers Association (IDCMA)
- [FR Doc. 81-31171 Filed 10-27-81; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD**Federal Savings and Loan Advisory Council; Meeting**

October 23, 1981.

Pursuant to Section 10(a) of Pub. L. 92-463, entitled the Federal Advisory Committee Act, notice is hereby given of the Meeting of the Federal Savings and Loan Advisory Council on Monday, November 16, Tuesday, November 17, and Wednesday, November 18, 1981. The meeting will commence at 9:00 a.m. each day. The meeting will be held at the Federal Home Loan Bank Board, 1700 G Street, NW, Washington, D.C., Bank Board Conference Room, Sixth Floor.

Monday, November 16

- 9:00 a.m.—Opening Remarks.
- 9:05 a.m.—Subcommittee Reports: a. Nominating, b. Mergers, c. Government Assistance, d. Regulatory.
- 10:15 a.m.—Break.
- 10:30 a.m.—Status Report—Recommendations from the June meeting.
- 12:00 Noon—Lunch
- 1:15 p.m.—Subcommittee Discussions: Privatization of the Mortgage Corporation, Low Coupon Loans, Mutual to Stock Conversions, FSLIC.

Tuesday, November 17

- 9:00 a.m.—Continue Discussion of Monday Afternoon Session.
- 12:00 Noon—Lunch.
- 1:00 p.m.—General Discussion.

Wednesday, November 18

- 9:00 a.m.—General Discussion.

*This party filed a single set of comments addressing both the CBI and SNET motions.

12:00 Noon—Adjourn.

The meeting of the Federal Savings and Loan Advisory Council is open to the public.

[FR Doc. 81-31190 Filed 10-27-81; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION**Agreement Filed**

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10427; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 9, 1981. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreement No. T-3997.

Filing Party: Mr. David W. Kienzle, Staff Counsel, Toledo-Lucas County Port Authority, 241 Superior Street, Toledo, Ohio 43604.

Summary: Agreement No. T-3997, between the Toledo-Lucas County Port Authority (Authority) and the Toledo Ore Railroad Company (Toledo Ore) provides for the Authority's lease to Toledo Ore of certain premises at the Toledo-Lucas County Port Authority, Toledo, Ohio, for the construction of a commercial and distribution facility to be used in the transshipment from vessels to railroad cars of iron ore and other bulk cargoes. The Authority agrees

to appoint Toledo Ore as its agent to construct and equip the facility, and will finance the cost of the proposed construction by the issuance of port facilities revenue bonds. As compensation, Toledo Ore will pay the Authority an amount necessary to service the debt of the bonds, plus additional rent as set forth in the agreement. The term of the lease runs through November 1, 2021.

Dated: October 22, 1981.

By Order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary

[FR Doc. 81-31143 Filed 10-27-81; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM**Bank Holding Companies; Proposed De Novo Nonbank Activities**

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate

Federal Reserve Bank not later than November 12, 1981.

A. Federal Reserve Bank of Philadelphia (Thomas E. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

Lincoln National Company, Bala-Gynwyd, Pennsylvania (insurance underwriting activities; Pennsylvania): to engage through a subsidiary, Lenders Life Insurance Company, in the activity of underwriting, as reinsurer, of credit life and credit accident and health insurance directly related to extensions of credit by Applicant's subsidiary bank, Lincoln Bank. Insurance sold by the subsidiary bank will be directly underwritten by an unaffiliated company qualified to do business in Pennsylvania. The insurance written by the unaffiliated company will be assigned to Lenders Life Insurance Company. These activities would be performed from offices located in Phoenix, Arizona, serving Southeastern Pennsylvania.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

First Chicago Corporation, Chicago, Illinois (trust activities; Florida): to engage through its *de novo* subsidiary, First Chicago Trust Company of Florida in performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company (including activities of a fiduciary, agency or custodian nature). These activities would be conducted from offices in Boca Raton, Florida serving Palm Beach and Broward Counties and the entire State of Florida.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

Cullen/Frost Bankers, Inc., San Antonio, Texas (insurance underwriting activities; Texas): to engage, through its subsidiary, C/F Life Insurance Company, in the underwriting of credit life insurance and credit accident and health insurance, which is directly related to extensions of credit by the Applicant or its subsidiaries. These activities would be conducted at the offices of Applicant's member bank offices, serving the following cities and others as banks are acquired and a larger geographical area consisting of the area in which customers of the member banks are located: San Antonio, Corpus Christi, Houston, Dallas, Galveston, Sugar Land, Laredo, and Austin, Texas.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Bankamerica Corporation, San Francisco, California (financing, servicing, and insurance activities; expansion of geographic scope; Massachusetts): to continue to engage, through its indirect subsidiary, FinanceAmerica Corporation of Massachusetts, a Massachusetts corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company, servicing loans and other extensions of credit, and offering credit-related life insurance in the state of Massachusetts. Credit-related accident and health insurance and credit-related property insurance will not be offered in the State of Massachusetts. Such activities will include, but not be limited to, making consumer installment loans; purchasing installment sales finance contracts; making loans and other extensions of credit to small businesses; making loans and other extensions of credit secured by real and personal property; and offering credit related life insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation of Massachusetts.

These activities will be conducted from an existing office located in West Springfield, Massachusetts, serving the entire State of Massachusetts.

E. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, October 21, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-31159 Filed 10-27-81; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Company; Proposed De Novo Nonbank Activities

The bank holding company listed in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether

consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than November 17, 1981.

Federal Reserve Bank of Atlanta Robert E. Heck, Vice President, 104 Marietta Street, N.W., Atlanta, Georgia 30303:

Southwest Florida Banks, Inc., Fort Myers, Florida (credit life insurance activities): to engage through its subsidiary, Southwest Financial Services, Inc., in acting as agent in the sale of credit life insurance in connection with extensions of credit at its affiliate, the Peoples Bank of Hillsborough County, Tampa, Florida. These activities will be conducted from an office in Tampa, Florida, serving the city of Tampa and Hillsborough County, Florida.

Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, October 22, 1981.

Theodore E. Downing,
Assistant Secretary of the Board.

[FR Doc. 81-31160 Filed 10-27-81; 8:45 am]

BILLING CODE 6210-01-M

Drayton Bancor, Inc.; Formation of Bank Holding Company

Drayton Bancor, Inc., Drayton, North Dakota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 percent or more of the voting shares of the Drayton State Bank, Drayton, North Dakota. The

factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Drayton Bancor, Inc., Drayton, North Dakota, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of Drayton Agency, Inc., Drayton, North Dakota.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency operating in a community with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Drayton, North Dakota, and the geographic area to be served is an area within a ten to twenty mile radius of Drayton, North Dakota. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or request for hearing should be submitted in writing and received by the Reserve Bank not later than November 19, 1981.

Board of Governors of the Federal Reserve System, October 21, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-31158 Filed 10-27-81; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

October 23, 1981.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Cherokees of Jackson County, Alabama, c/o Mr. H. L. Martin, 2749 Cherokee Road, Birmingham, Alabama 35216, have filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on September 23, 1981. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

Kenneth Smith,
Assistant Secretary—Indian Affairs.

[FR Doc. 81-31172-Filed 10-27-81; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Intent To Conduct Wilderness Study of the Sleeping Giant Area in Conjunction With the Headwaters Resources Management Plan

October 21, 1981.

The Montana Bureau of Land Management has completed an intensive wilderness inventory of the Sleeping Giant area located approximately 25 miles northeast of Helena, Montana. This inventory was conducted under the authority granted by Section 603 of the Federal Land Policy and Management Act of 1976 and in accordance with the guidelines

provided in the BLM Wilderness Inventory Handbook dated September 27, 1978.

The Sleeping Giant area consisted of eleven noncontiguous parcels of public land totaling 6,858 acres when the statewide wilderness inventory commenced in November 1978. These lands did not qualify for wilderness inventory because of their noncontiguous status. As a result of a land purchase and exchange program completed in March 1981, 12,576 acres of land were consolidated and subjected to wilderness inventory. Portions of T. 13 N., R. 3 W.; T. 13 N., R. 4 W.; T. 14 N., R. 3 W.; and T. 14 N., R. 4 W. were inventoried.

The intent to conduct an intensive inventory was announced in the July 24, 1981, Federal Register (Page 38146) and in local Montana media sources. A thirty-day public review period extending from August 10 to September 10, 1981, was conducted in order to provide an opportunity for the public to comment on inventory findings. A public meeting to discuss inventory findings was also held at the Helena, Montana, Interagency Fire Center on August 17, 1981.

As a result of the inventory and public comment, 6,112 acres were found to qualify for further wilderness study. The Headwaters Resource Management Plan will be the planning mechanism used by the Bureau of Land Management to make wilderness recommendations to Congress for the Sleeping Giant area and all wilderness study areas located within the Headwaters Resource area. This planning effort will be completed in Fiscal Year 1983.

Future public comment periods, notices of public meetings or hearings will be announced in the Federal Register and Montana media sources at appropriate times.

Copies of the Sleeping Giant Intensive Wilderness Inventory Report and other information can be obtained by contacting: Butte BLM District Manager, 106 N. Parkmont, P.O. Box 3388, Butte, Montana 59701. Telephone: (406) 723-6561.

Michael J. Penfold,
State Director.

[FR Doc. 81-31144 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

[M 45993-C; 9617 (952)]

Montana; Filing of Plat of Survey and Order Providing for Opening of National Forest Lands

1. A plat of survey of an island described below will be officially filed

in the Montana State Office, Bureau of Land Management, Billings Montana, at 8 a.m. on December 28, 1981.

Principal Meridian

T. 29 N., R. 33 W.,
Sec. 29, Lot 10.

The area described aggregates 0.52 acre of national forest land in Lincoln County.

2. The surveyed island is situated in Bull Lake southwest of Libby, Montana, and is within the boundaries of the Kootenai Forest. The island has a medium cover of small pine, cedar and larch timber, with alder and willow brush along the shore line. The island is located approximately 80 feet northwest of the end of a peninsula jutting out into the lake from the west shore. The vegetation and soil on the island is similar to that of the uplands.

3. At 8 a.m. on December 28, 1981 the above-described land shall be open to such forms of appropriation as may by law be made of national forest land, subjects to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

4. Inquiries concerning the survey and opening this land should be addressed to the Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Delores M. James, Chief,

Branch of Records and Data Management.

[FR Doc. 81-31145 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

[M 45993; 9617 (952)]

Montana; Filing of Plat of Survey and Order Providing for Opening of National Forest Lands

1. Plats of survey of two islands described below will be officially filed in the Montana State Office, Bureau of Land Management, Billings, Montana, at 8 a.m. on December 28, 1981.

Principal Meridian

T. 25 N., R. 18 W.,
Sec. 4, Lot 9.

0.32 acre.

T. 26 N., R. 18 W.,
Sec. 30, Lot 8.

0.14 acre.

The areas described aggregate 0.46 acre of national forest lands in Lake County.

2. The surveyed islands are situated in Swan Lake southeast of Bigfork, Montana, and are within the boundaries of the Flathead National Forest. The island in Sec. 4 has a heavy cover of fir, pine, larch, juniper, cedar and birch, with alder and willow brush. The island in Sec. 30 has a light cover of small pine trees and scrub juniper with several larger ponderosa pines present. The vegetation and soil in both islands are

similar to that of the uplands, and they are both nesting sites for wild geese.

3. At 8 a.m. on December 28, 1981 the above-described land shall be open to such forms of appropriation as may by law be made of national forest lands, subject to any valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

4. Inquiries concerning the survey and opening of these lands should be addressed to the Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Delores M. James,

Chief, Branch of Records and Data Management.

[FR Doc. 81-31149 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

[PHX 075416, etc.]

Arizona; Order Providing for Opening of Public Lands

1. In exchanges of lands made under the provisions of Section 8 of the Act of June 28, 1934 (49 Stat. 1272, amended, 43 U.S.C. 315g) the following lands have been reconveyed to the United States under the serial numbers listed below:

Gila and Salt River Meridian, Arizona

PHX 075416

T. 14 N., R. 13 W.,

Sec. 2, Lots 1, 2, 3, 4,

T. 14 N., R. 19 W.,

Sec. 36,

T. 3 N., R. 19 W.,

Secs. 2, 16, 32 and 36,

PHX 075458

T. 17 N., R. 17 W.,

Sec. 2, Lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$,

Secs. 16, 32 and 36,

T. 17 N., R. 18 W.,

Sec. 2, Lots 1, 2, 3, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$,

Secs. 16 and 32,

T. 17 N., R. 16 W.,

Sec. 32, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$,

Sec. 36, SE $\frac{1}{4}$,

T. 16 N., R. 17 W.,

Sec. 36, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, S $\frac{1}{2}$ SE $\frac{1}{4}$,

PHX 075482

T. 17 N., R. 20 W.,

Sec. 2, Lot 4,

T. 16 N., R. 19 W.,

Sec. 2, Lots 1, 2, 3, 4,

T. 23 N., R. 14 W.,

Sec. 16, N $\frac{1}{2}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$, SE $\frac{1}{4}$,

Sec. 36, Lots 1, 2, 3, 4, NW $\frac{1}{4}$ NW $\frac{1}{4}$,

T. 25 N., R. 14 W.,

Sec. 32, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$,

T. 28 N., R. 16 W.,

Sec. 36, N $\frac{1}{2}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$,

PHX 075484

T. 24 N., R. 14 W.,

Sec. 2 and 16,

Sec. 36, Lots 1, 2, 3, 4, W $\frac{1}{2}$ W $\frac{1}{2}$,

T. 17 N., R. 15 W.,

Sec. 16, SW $\frac{1}{4}$,

T. 20 N., R. 16 W.,

Sec. 16,

T. 19 N., R. 17 W.,

Sec. 36,

T. 28 N., R. 17 W.,

Sec. 16,

T. 24 N., R. 11 W.,

Sec. 2, Lots 1, 2, 3, 4, S $\frac{1}{2}$ S $\frac{1}{2}$,

T. 20 N., R. 19 W.,

Sec. 2, S $\frac{1}{2}$, S $\frac{1}{2}$ N $\frac{1}{2}$,

T. 22 N., R. 18 W.,

Sec. 2, Lot 4,

T. 6 S., R. 8 W.,

Sec. 36,

PHX 075487

T. 25 N., R. 15 W.,

Sec. 2, Lots 1, 2, 3, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$,

T. 18 N., R. 13 W.,

Sec. 36,

T. 15 N., R. 15 W.,

Sec. 12,

T. 19 N., R. 19 W.,

Sec. 32,

T. 25 N., R. 16 W.,

Secs. 2 and 16,

PHX 075489

T. 25 N., R. 19 W.,

Sec. 16, S $\frac{1}{2}$,

T. 25 N., R. 20 W.,

Secs. 16, 32 and 36,

T. 25 N., R. 21 W.,

Sec. 2, Lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$,

Sec. 16,

Sec. 36, S $\frac{1}{2}$, NE $\frac{1}{4}$

T. 25 N., R. 14 W.,

Sec. 32, SE $\frac{1}{4}$,

T. 26 N., R. 14 W.,

Sec. 32,

T. 26 N., R. 15 W.,

Sec. 2,

PHX 075492

T. 14 N., R. 13 W.,

Sec. 2, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$,

T. 27 N., R. 15 W.,

Secs. 16, 32 and 36,

T. 27 N., R. W.,

Secs. 2, 16 and 36,

T. 27 N., R. 17 W.,

Sec. 2, N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$,

PHX 075712

T. 2 S., R. 7 W.,

Sec. 2, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$,

Sec. 16, W $\frac{1}{2}$, SE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$,

Sec. 32, N $\frac{1}{2}$, SE $\frac{1}{4}$,

T. 13 N., R. 13 W.,

Sec. 2, S $\frac{1}{2}$,

PHX 075767

T. 15 N., R. 14 W.,

Sec. 10,

Sec. 18, Lots 1, 2, 3, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$,

E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$,

Sec. 20,

Sec. 22, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$,

Sec. 24,

Sec. 26, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$,

Sec. 28, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$,

T. 14 N., R. 16 W.,

Sec. 32, NW $\frac{1}{4}$,

T. 14 N., R. 15 W.,

Sec. 24,

T. 14 N., R. 13 W.,

Sec. 16, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$.

PHX 077473

T. 14 N., R. 13 W.,
Sec. 2, SE $\frac{1}{4}$.

PHX 077831

T. 39 N., R. 12 W.,
Sec. 2, S $\frac{1}{2}$ S $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$,
Sec. 16, SW $\frac{1}{4}$
T. 39 N., R. 16 W.,
Sec. 36, E $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$.

PHX 077842

T. 39 N., R. 12 W.,
Sec. 2, Lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$,
Sec. 16, N $\frac{1}{2}$, SE $\frac{1}{4}$,
Sec. 32, N $\frac{1}{2}$, SE $\frac{1}{4}$,
T. 39 N., R. 13 W.,
Secs. 16, 32 and 36,
T. 39 N., R. 16 W.,
Sec. 36, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$

PHX 078043

T. 14 N., R. 13 W.,
Sec. 16, N $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$,
Sec. 32, N $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$,
Sec. 36, N $\frac{1}{2}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$,
T. 14 N., R. 14 W.,
Sec. 16, N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$,
Sec. 36, N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate approximately 48,093 acres in Maricopa, Mohave and Yuma counties.

2. The United States did not acquire the mineral rights on any of the lands described in paragraph 1.

3. Subject to valid existing rights, the provisions of existing withdrawals and the requirement of applicable law, the lands described in paragraph 1 are hereby open to operation of the public land laws, generally. All valid applications received at or prior to 10:00 a.m., November 20, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, 2400 Valley Bank Center, Phoenix, Arizona 85073 (602-261-3706).

Mario L. Lopez.

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-31271 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

Multiple Use Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780 that a meeting of the Butte District Advisory Council will be held on Thursday and Friday, November 5 and 6, 1981.

The meeting will begin at 1:00 p.m. on

November 5 in the conference room of the Butte District Office at 106 N. Parkmont (Industrial Park), Butte, Montana. The agenda will include:

1. Implementation of Mountain Foothills Range EIS.
2. A report and discussion on the district's energy program.
3. The status of land use planning in the District.
4. Rangeland policy.
5. A discussion of the budget outlook for fiscal year 1982.
6. Program emphasis for fiscal year 1982.
7. Council topics.

The meeting is open to the public. Interested persons may make oral statements to the Council or file written statements for the Council's consideration. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, 106 N. Parkmont, P.O. Box 3388, Butte, Montana 59702 by November 3. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Jack A. McIntosh,

Butte District Manager.

[FR Doc. 81-31333 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Proposed Classification Decision

October 21, 1981.

The following described lands have been reviewed in accordance with petitions for classification submitted pursuant to the Desert Land Act (19 Stat. 377; 43 U.S.C 231). These lands are hereby classified as suitable for entry under the desert land law.

Mount Diablo Meridian

- T. 30 N., R. 59 E.,
Sec. 18, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 29, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 30, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 31 N., R. 59 E.,
Sec. 10, Lots 3, 4, 5, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 11, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 13, NE $\frac{1}{4}$;
Sec. 14, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 15, Lots 1, 2, 8.
T. 32 N., R. 60 E.,
Sec. 1, Lots 1, 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 14, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 15, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

Sec. 21, S $\frac{1}{2}$;

Sec. 22, NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 23, W $\frac{1}{2}$

T. 33 N., R. 60 E.,

Sec. 36, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$.

The area described aggregates 3,489.81 acres.

This determination is based on the following rationale:

1. The lands are physically suited to the purpose for which they are classified, 43 CFR 2410.1(a).

2. This classification will provide the maximum benefit to the land while creating a minimum of disturbance to existing users, 43 CFR 2410.1(b).

3. No Federal programs will be adversely affected by this classification, 43 CFR 2410.1(d).

4. The agricultural development and the land's subsequent disposal will have little significant adverse impact on the environment, will be beneficial to the economic environment of the area, and will represent the "highest and best use" of the lands, 43 CFR 2430.5(a).

Conveyance of these lands is subject to the following reservations:

1. An existing power line right-of-way, Nev 058476 (100 ft. width) as it traverses lots 4 and 5 of section 10 and lots 1 and 8 of section 15, T. 31 N., R. 59 E., MDM and the SE $\frac{1}{4}$ of section 15, T. 32 N., R. 60 E., MDM.

2. An existing highway right-of-way, Nev 012205 (400 ft. width) as it traverses the SE $\frac{1}{4}$ of sec. 15 and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of section 21, T. 32 N., R. 60 E., MDM.

3. An existing powerline right-of-way, N-6714 (25 ft. width) as it traverses lot 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ of section 1, T. 32 N., R. 60 E., MDM and SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 36, T. 33 N., R. 60 E., MDM.

4. An existing phoneline right-of-way, N-16732 (20 ft. width) as it traverses lots 4, 5, SE $\frac{1}{4}$ SW $\frac{1}{4}$ of section 10 and lots 1 and 2 of section 15, T. 31 N., R. 59 E., MDM.

5. An existing road right-of-way, N-7851 (66 ft. width) as it traverses lots 3 and 4 of section 10, T. 31 N., R. 59 E., MDM.

6. An existing BLM road easement #1036 (80 ft. width) as it traverses N $\frac{1}{2}$ SW $\frac{1}{4}$ section 14, T. 31 N., R. 59 E., MDM.

7. An existing county road #788 (80 ft. width) as it traverses lots 4, 5, SW $\frac{1}{4}$ SE $\frac{1}{4}$ of section 10 and lots 1, 2, and 8 of section 15, T. 31 N., R. 59 E., MDM.

8. An existing county road #786 (80 ft. width) as it traverses the E $\frac{1}{2}$ E $\frac{1}{2}$ section 36 T. 33 N., R. 60 E., MDM.

9. Oil and Gas lease N-11475 as it affects: T. 32 N., R. 60 E., MDM
Sec. 1, lots 1, 2, 3, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

10. Oil and Gas lease N-11476 as it affects: T. 32 N., R. 60 E., MDM
Sec. 14, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 23, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$.

11. Oil and Gas lease N-11477 as it affects: T. 32 N., R. 60 E., MDM
Sec. 15, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

- Sec. 22, W½NE¼, SE¼NE¼, E½SE¼.
 12. Oil and Gas lease N-12780 as it affects:
 T. 30 N., R. 59 E., MDM
 Sec. 29, N½SW¼, SW¼SW¼;
 Sec. 30, S½NE¼, N½SE¼, SE¼SE¼.
 13. Oil and Gas lease N-12791 as it affects:
 T. 32 N., R. 60 E., MDM
 Sec. 21, S½.
 14. Oil and Gas lease N-14078 as it affects:
 T. 31 N., R. 59 E., MDM
 Sec. 13, NW¼;
 Sec. 14, N½, N½, SW¼.
 15. Oil and Gas lease N-15871 as it affects:
 T. 33 N., R. 60 E., MDM
 Sec. 36, NE¼, NE¼NW¼, SE¼SW¼, S½
 SE¼.
 16. Oil and Gas lease N-16217 as it affects:
 T. 30 N., R. 59 E., MDM
 Sec. 18, E½NW¼SE¼, SW¼SE¼.
 17. Oil and Gas lease N-19822 as it affects:
 T. 32 N., R. 60 E., MDM
 Sec. 22, NE¼NE¼;
 Sec. 23, N½NW¼.
 18. Oil and Gas lease N-21269 as it affects:
 T. 31 N., R. 59 E., MDM
 Sec. 10, lots 3, 4, 5, SE¼SW¼, SW¼SE¼;
 Sec. 11, SW¼SW¼;
 Sec. 15, lots 1, 2, 8.
 19. Geothermal lease N-9635 as it affects:
 T. 31 N., R. 59 E., MDM
 Sec. 14, N½, N½SW¼.
 20. Geothermal lease N-13199 as it affects:
 T. 31 N., R. 59 E., MDM
 Sec. 10, lots 3, 4, 5, SE¼SW¼, SW¼SE¼;
 Sec. 11, SW¼SW¼;
 Sec. 15, lots 1, 2, 8.
 21. Geothermal lease N-20970
 T. 31 N., R. 59 E., MDM
 Sec. 13, NW¼.

Allowance of entry on these lands will affect the following:

1. UX Livestock Company will be reduced from 361 active AUM's to 336 active AUM's on the Ruby #6 allotment, a 25 AUM reduction. Included in the 336 active AUM's are 10 AUM's of fenced federal range.

2. NEFF Ranch Company will be reduced from 1268 active AUM's to 1179 active AUM's in the Ruby #6 allotment, an 89 AUM reduction. Included in the 1179 active AUM's are 11 AUM's of fenced federal range.

3. Dahl, Inc. will be reduced from 314 active AUM's to 282 active AUM's in Ruby #4 allotment, a 32 AUM reduction.

Interested parties may submit comments on this proposed classification decision to Rodney Harris, District Manager, Elko District Office, P.O. Box 831 Elko, Nevada 89801, on or before December 28, 1981.

Charles E. Hancock,

Acting Chief, Division of Technical Services.

[FR Doc. 81-31272 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Chikaskia Project, Kansas-Oklahoma; Public Hearings on Draft Environmental Statement and on Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands)

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior, Bureau of Reclamation, has prepared a draft environmental statement (DES) for the Chikaskia Project, Kansas-Oklahoma. This DES (DES 81-43, dated October 2, 1981) was made available to the public on October 2, 1981.

Chikaskia Project is a surface water development planned by the Bureau of Reclamation to meet expanding municipal and industrial water needs of Wichita, Kansas, and surrounding areas. Flood protection, recreation, fish and wildlife enhancement, and lands for wildlife management are other project proposes. Although several alternatives were considered, only four were studied in detail. These alternatives propose constructing a dam and reservoir on the Chikaskia River near Corbin, Kansas, in Sumner County.

Public hearings will be held at 7:30 p.m. on December 8, 1981, at Wichita, Kansas, in the City Commission Room at city hall, and at 7:30 p.m. on December 9, 1981, at Caldwell, Kansas, in the high school. The purpose of these hearings is twofold—to receive views and comments from interested organizations and individuals relating to the environmental impacts of the project and to provide the public with information on the effect this project will have on wetlands (Executive Order 11990) and flood plains (Executive Order 11988) and will give the public an opportunity to participate in the decisionmaking process.

Oral statements at the hearing will be limited to 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the hearings officer may allow any speaker to provide additional oral comment after all persons wishing to comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request whenever possible; and any scheduled speaker not present when called will lose his privilege in the scheduled order, and his name will be recalled at the end of the scheduled speakers. Requests for scheduled presentation will be accepted up to November 25, 1981, and any subsequent requests will be handled on a first-come-first-served basis following the

scheduled presentation.

Organizations or individuals desiring to present statements at the hearing should contact the Bureau of Reclamation, Suite 201, 714 South Tyler Street, Amarillo, Texas, telephone (806) 378-5400, extension 599, and announce their intention to participate. Written comments from those unable to attend and from those wishing to supplement their oral presentation at the hearing should be received by December 18, 1981, for inclusion in the hearing record.

Dated: October 22, 1981.

Eugene Hinds,

Assistant Commissioner, Bureau of Reclamation.

[FR Doc. 81-31173 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-6 (Sub-No. 103F)]

Burlington Northern Railroad Co.-Abandonment-Between-Alexandria, MO and Centerville, IA; Findings

The Commission has issued a certificate authorizing Burlington Northern Railroad Company to abandon its 86.3 mile rail line between Alexandria, MO (milepost 5.23) and Centerville, IA (milepost 91.53) in Clark, Scotland, and Schuyler Counties, IA and Appanoose County, IA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31179 Filed 10-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 29732]**Chicago And North Western Transportation Co.—Exemption Under 49 U.S.C. 10505 From 49 U.S.C. 11343****AGENCY:** Interstate Commerce Commission.**ACTION:** Notice of exemption.

SUMMARY: The Commission exempts from the requirements of prior approval under 49 U.S.C. 11343 the trackage rights agreement permitting Chicago and North Western Transportation Company (C&NW) to operate over the 140.3 mile White Bear Lake line of the Burlington Northern Railroad Company (BN) between St. Paul, MN and Allouez, WI. The trackage rights agreement satisfies a condition imposed in *Burlington Northern, Inc.-Control & Merger-St. L.*, 360 I.C.C. 783 (1980) that BN grant C&NW trackage rights over this line.

DATES: This exemption is effective immediately. Petitions to reopen must be filed within 20 days following publication.

ADDRESSES: Send petitions for reconsideration to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: John T. Van Gessel, Chicago and North Western Transportation Co., 400 West Madison Street, Chicago, IL 60606.

Pleadings should refer to Finance Docket No. 29732.

FOR FURTHER INFORMATION CONTACT: Ellen D. Hanson, (202) 275-7245.

SUPPLEMENTAL INFORMATION: The decision served by the Commission contains further information.

Decided: October 20, 1981.

By the Commission, Chairman Taylor, Vice-Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31181 Filed 10-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-58)]**Chicago and North Western Transportation Company Exemption for Contract Tariff ICC-CNW-C-0042**

The Chicago and North Western Transportation Company filed a petition on October 9, 1981, requesting an exemption from the requirement of 49 U.S.C. 10713(e) that the contract rate tariff ICC-CNW-C-0042 be made effective on a minimum of 30 days' notice. The carriers seek to advance the effective date of the contract tariff on one day's notice. The contract tariff was

issued on October 7, 1981, with a scheduled effective date of November 8, 1981. This request was supported by the shippers.

The contract covers annual volume rates on cement, hydraulic, natural or portland. It is alleged that an exemption is necessary because there is an immediate need for rail transportation of this product from Rapid City, SD to Bismarck, ND. If this exemption is not granted, this traffic might be diverted from rail to truck transportation in order to meet the immediate need of customers.

Under 49 U.S.C. 10713(e) contracts must be filed to become effective on not less than 30 nor more than 60 days' notice. There is no provision for waiving this requirement. Cf. former section 10762 (d)(1). However, the Commission has granted relief under section 10505 exemption authority in exceptional situations.

The petition is granted. Shipper's need for immediate service creates a circumstance under which authorization of a provisional exemption is warranted. CNW's contract tariff ICC-CNW-C-0042 may become effective on one day's notice.

We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking this exemption under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the *Federal Register*.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: October 20, 1981.

By the Commission, Division 2,
Commissioners Gresham, Gilliam, and

Taylor. Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31182 Filed 10-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub 59)]**Richmond, Fredericksburg and Potomac Railroad Co. Exemption For Contract Tariff ICC-RFP-C-0005**

The Richmond, Fredericksburg and Potomac Railroad Company filed a petition on October 16, 1981, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we advance the effective date of its contemporaneously filed contract tariff ICC-RFP-C-0005, now November 14, 1981, so that the effective date would be on one day's notice. The contract covers track storage of paper and paper products at Bryan Park, VA.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 nor more than 60 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition is granted. Shipper requires immediate storage of some of its product on RF&P boxcars in order to continue uninterrupted production at its plant. Under these circumstances an exemption is warranted RF&P's contract tariff ICC-RFP-C-0005 may become effective on one day's notice.

We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30-day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking these exemptions under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the *Federal Register*.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10505.

Dated: October 21, 1981.

By the Commission, Division 1,
Commissioners Clapp, Gresham, and Taylor.
Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31183 Filed 10-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-10 (Sub 21F)]

Wabash Railroad Co. and Norfolk and Western Railway Co.—Abandonment—In Elkhart, LaGrange, Noble and Steuben Counties, Indiana and Williams County, Ohio; Findings

The Commission has issued a certificate authorizing Wabash Railroad Company and Norfolk and Western Railway Company to abandon its 71.89-mile rail line between milepost 98+1853 feet at Pergo (Montpelier), OH and Milepost 170+1280 feet at Warkarusa, IN, in Elkhart, LaGrange, Noble and Steuben Counties, IN and Williams County, OH. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31180 Filed 10-27-81; 8:45 am]

BILLING CODE 7035-01-M

Finance Applications Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the

Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 3, Krock, Joyce and Dowell.

MC-FC-78509. By decision of October 5, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to MEL JARVIS CONSTRUCTION CO., INC., of Salina, KS of Certificate No. MC-140241 (Sub-No. 55) issued to ERNEST McRAE, Trustee in bankruptcy, DALKE TRANSPORT, INC., of Moundridge, KS authorizing: *Plastic conduit, plastic siding and plastic molding*: from McPherson, KS to points in Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Texas, Arizona, Nevada,

Washington, Oregon, and California, and from Waco, TX to points in Arizona, California, Colorado, Nevada, Oklahoma, and Kansas; *Plastic pipe, plastic tubing, plastic molding, plastic valves, plastic fittings, plastic siding, plastic compounds, plastic joint sealer, plastic bonding cement, and plastic accessories and materials used in the installation of such products*, from Waco, TX to points in New Mexico; *Plastic conduit, plastic siding and plastic moldings*, from Waco, TX to points in Oregon, Washington, Idaho, Montana, Wyoming, North Dakota, South Dakota, Nebraska, Minnesota, Iowa, that part of Utah on and north of a line beginning at the Nevada-Utah State line, then along Utah Hwy 56 to junction U.S. Hwy 91, then along U.S. Hwy 91 to junction Utah Hwy 20, then along Utah Hwy 20 to its junction with U.S. Hwy 89, then along U.S. Hwy 89 to junction Utah Highway 4 then along Utah Hwy 4 to junction Interstate Hwy 70, then along Interstate Hwy 70 to the Colorado-Utah State line. Representative: William B. Barker, P.O. Box 1979, Topeka, KS 66601. This amends the Federal Register publication of April 17, 1980.

MC-FC-79176. By decision of October 14, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to J. F. PIERCE & ASSOCIATES of Certificate No. MC-135900 issued November 2, 1977 to FRED L. BENDER AND OLIVE BENDER, d.b.a. F & O TRUCKING, authorizing the transportation of *such commodities* as are dealt in by surplus and discount stores, from the facilities of World Wide Distributor Association, Inc., at Seattle, WA to Portland, Salem, Medford and Milton-Freewater, OR, and Moscow, ID over irregular routes. Representatives: James F. Pierce, 1518 11th Drive, S.E., Lake Stevens, WA 98258. Not a carrier. No T/A sought.

Corrected Federal Register

MC-FC-79266. By decision of September 23, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to DICK JONES TRUCKING, INC. of Permit No. MC-150552 (Sub-No. 1)¹ issued September 1, 1978 to RICHARD B. JONES TRUCKING authorizing the transportation of general commodities (except classes A and B explosives) between points in the

¹ On July 13, 1981, Review Board Number 3 approved the transfer of authority in No. MC-150552F. Before publication, the parties requested substitution of Certificate No. MC-150552 (Sub-No. 1) in lieu of Certificate No. MC-150552F as the authority to be transferred.

United States, under continuing contract(s) with Champlain Valley International Shippers and Receivers Association, Inc., of Swanton, VT. Applicant's representative is: Charles H. Kenyon, 21 Merchants Row, P.O. Box 136, Swanton, VT 05480.²

MC-FC-79317. By decision of October 15, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to R.C.R. INC., of Yutan, NE, of Certificate No. MC-99667 (Sub-No. 2), issued October 9, 1981, to TRI VALLEY TRANSPORTATION, INC., JOHN A. WOLF, trustee in bankruptcy, of Grand Island, NE, which authorizes the transportation of *general commodities* (except those requiring special equipment), between Ord, NE, and points within 50 miles of Ord, Omaha, and Kimball, NE, on the one hand, and, on the other, points in NE, with specified restrictions. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106.

Notes.—TA has been granted. Transferee is a motor common carrier under MC-149616.

MC-FC-79347. By decision of October 8, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to VIP EXCURSION, INC. of Trenton, NJ of Permit No. MC-141553 (Sub-No. 2) issued on November 11, 1976 to LEO SORIERO, d.b.a. BELLE COMPANY of Trenton, NJ, authorizing passengers and their baggage in the same vehicle with passengers, by motor vehicle with a seating capacity of no more than 9 passengers, excluding driver, between the facilities of Consolidated Rail Corporation, at or near Morrisville, PA, and the rail facilities of U.S. Steel Corporation at or near Fairless and Bristol PA, on the one hand, and, on the other, Trenton, NJ and the facilities of Consolidated Rail Corporation at or near Bordentown and Burlington, NJ under a continuing contract, or contracts with Consolidated Rail Corporation. Representative: Joseph L. Bocchini, Jr., P.O. Box 3152, Trenton, NJ 08619. TA lease is not sought. Transferee is not a carrier.

MC-FC-79352. By decision of October 8, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to NATIONAL FREIGHT SYSTEM, INC. of Certificate No. MC-24379 and all issued sub-numbers thereunder, issued to LONG TRANSPORTATION COMPANY

authorizing the transportation of *general commodities* (usual exceptions) and specified commodities including but not limited to iron and steel articles, furniture, groceries, automotive engines, aluminum alloy gnots, zinc alloy gnots, scrap metals, department store merchandise, motor vehicles, electronic equipment, malt beverages and drug and toilet preparations, over regular and irregular routes between points in the United States (except Alaska and Hawaii). Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167.

Note.—Transferee is a non-carrier. TA lease is not sought.

MC-FC-79353 (republication), by decision of October 13, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board No. 3 approved the transfer to LOVE'S TRUCKING, INC. of Permit No. MC-107006 (Sub-No. P15X), Certificate No. MC-107006 Sub-No. 11F, and Sub-No. C15X issued to THOMAS KAPPEL, INC. authorizing transportation of specified commodities as a contract carrier in the U.S. and as a common carrier between named OH, SC, and MO cities or counties, on the one hand, and, on the other, points in the United States. Transferee holds authority from the Commission in No. MC-151483. Application for temporary authority has been filed. Representative: A. Charles Tell, Baker & Hostetler, 100 E. Broad St., Columbus, OH 43215.

Note.—This publication modifies the prior Federal Register publication of October 13, 1981.

MC-FC-79360. By decision of October 1, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to RICHARD L. BARGMANN, d.b.a. J & R TRUCKING of Bancroft, NE, of Permit Nos. MC-133531 and MC-133531 (Sub 1) issued May 26, 1977, and March 5, 1976, respectively to Walthill Transportation Co. of Walthill, NE, authorizing the transportation, over irregular routes, of (1)(a) *farm machinery* (except self-propelled equipment), from the facilities of Campbell Manufacturing Company, Inc. and Rawhide Manufacturing Company, at or near Walthill, NE, to points in the U.S. (except Alaska and Hawaii); (b) *materials equipment and supplies* used in the manufacture of farm equipment (except self-propelled equipment), in the reverse direction (a) above under continuing contract(s) with Campbell Manufacturing Company, Inc. of Walthill, NE and Rawhide Manufacturing Company at or near Walthill NE; and (2)(a) *sprayer tanks*,

from Sioux Falls, SD; Itasca, IL; Albertville, AL; and Washington Court House, OH, to points in AR, AZ, CA, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MT, MS, MO, NE, NY, ND, OH, OK, PA, SD, TN, TX, WA, and WI; and (b) *pumps*, from Memphis, TN to points in AR, AZ, CA, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MT, MS, MO, NE, NY, ND, OH, OK, PA, SD, TN, TX, WA, and WI, under a continuing contract(s) with Campbell Manufacturing Company, Inc. of Walthill, NE. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501, (402) 475-6761. TA lease is not sought. Transferee is not a carrier.

MC-FC-79369. By decision of October 15, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to JOHN H. DONOVAN, and individual, of Miami, FL, of Certificate No. MC-118095 issued May 24, 1961, to EDGAR W. FLIPPIN, individual, d.b.a. E. W. Flippin Fruit & Produce authorizing the transportation of *Bananas*, from Miami, FL to Louisville, KY and Indianapolis and Terre Haute, IN, with no transportation for compensation on return except as otherwise authorized. From Tampa FL, to Indianapolis, IN, with no transportation for compensation on return except as otherwise authorized. Representative is: Edgar W. Flippin, 8240 S W 155 Terr., Miami, FL 33157. Application of TA has not been filed. Transferee presently holds no authority.

MC-FC-79371. By decision of October 7, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to CHAFEN BODY WORKS, INC. of Certificate No. MC-116174 (Sub-No. 2) issued to CHAFEN BODY WORKS, PATSY L. LAWSON, ADMINISTRATIX authorizing the transportation of wrecked, damaged, disabled, repossessed or abandoned motor vehicles and trailers and replacement motor vehicles and trailers (except replacement mobile homes) by use of wrecker equipment only, between St. Joseph and Faucett, MO, on the one hand, and, on the other, points in the US (except Alaska and Hawaii). Representative: Tom B. Kretsinger, 20 East Franklin, P.O. Box 258, Liberty, MO 64068-0258.

Note.—Transferee is a non-carrier. TA Lease is not sought.

MC-FC-79374. By decision of 10-2-81 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132 Review Board Number 3 approved the transfer to MERCURY PARCEL &

²This notice is being republished to correct the initial notice published in the Federal Register Document 27928 opening on page 47314 appearing in issue of September 25, 1981.

DRAYAGE SERVICE, INC., of Burlington, CA of Certificate of Registration No. MC-121717 issued to FREDERICK T. JEWETT, d.b.a. MERCURY PARCEL & DRAYAGE SERVICE, INC., of San Francisco, CA, authorizing general commodities (with exceptions), between points on or within five miles of (1) U.S. Hwy 101 between San Rafael and San Jose, CA, inclusive; (2) California Hwy 17 between San Rafael and Los Gatos, CA inclusive, corresponding to Certificate No. 81832 issued by the Public Utilities Commission of California Condition Receipt by the Commission of the State order approving transfer of the underlying intrastate rights. Applicant's representative: Raymond A. Greene, 100 Pine St., Suite 2550, San Francisco, CA 94111. TA lease is not sought. Transferee is not a carrier.

MC-FC-79376. By decision of October 13, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to M&G FLEET SERVICE, INC. of Baton Rouge, LA of certificate No. MC-117439 and MC-117439 (Sub-Nos. 2, 6, 7, 15, 17, 25, 26, 28, 31, 32, 33, 40, 41, 48, 50, 51, 54, 55, 57, 59, 61, 2F, 65F, and 68F) to BULK TRANSPORT, INC. of Baton Rouge, LA, authorizing the transportation of *cement; lime, gypsum, gypsum products, building materials (except commodities in bulk); dry corn products and dry blends of corn products; drilling mud; salt; fly ash, glue dust, and lignite; dry fertilizer; liquid fertilizer; and dry urea* throughout the southern United States. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transferee is a non-carrier. TA is sought.

MC-FC-79380. By decision of October 13, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to GARY HARDEN doing business as HARDEN TRUCKING of Permit No. MC-147645 (Sub-No. 3F) issued March 6, 1981 to Doty Trucking, Inc. authorizing the transportation of *bus parts*, between points in the United States under continuing contract with Eagle International, Inc. of Brownsville, TX. Representative: Stephen Heimann, Esq., 415 Washington Street, P.O. Box 668, Columbus, IN 47201.

Note.—Transferee is not a motor carrier. No application for temporary lease of the operating authority has been filed.

MC-FC-79383. By decision of October 2, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to WILLIAM CURTIN, d.b.a.

CURTIN'S EXPRESS of Certificate of Registration No. MC-98247 (Sub-No. 1) issued February 24, 1964, to ALFRED M. CARROLL, doing business as CARROLL'S EXPRESS authorizing the transportation of *general commodities*, between a point in Cambridge and a point in Dedham beyond Readville, passing through (1) Vassar Street and Massachusetts Ave. in Cambridge; Harvard Bridge; Boston Proper; Columbia Ave., Washington Street, Hyde Park Avenue, Milton Street and Sprague Street in Boston, and approximately ½ mile on Sprague Street in Dedham, (2) Vassar Street, Main Street in Cambridge; West Boston Bridge; Boston Proper; Albany Street, Hampton Street, Dedly Street and Blue Hill Avenue in Boston; Blue Hill Avenue, Brush Hill Road and Milton Street in Milton, Milton Street and Sprague Street in Boston, and approximately ½ mile on Sprague Street in Dedham. Applicant's representative is: William Curtin, 116 Mount Vernon Street, Lawrence, MA 01843, 617-687-3314.

Note.—Transferor's wife is a majority stockholder and president of a multi-State carrier. The parties advise that the transferee has no financial or other interest in the record carrier and that there will not be any operational arrangements between the carriers. No further information is given with respect to facilities, employees, etc., of the carriers, or to the ability of either spouse to influence the operations of the two carriers. Since the applicable gross revenues of the carriers involved appear to be less than \$2.0 million, no application under 49 U.S.C. 11343 appears required. The transferees advised, however, that, should such application exist within the purview of 49 U.S.C. 11343, the validity of the certificate of registration being transferred herein would be in jeopardy under the provisions of 49 U.S.C. 10931.

MC-FC-79385. By decision of October 2, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to K-B TRANSPORT, INC., of Rochester, NY of Certificate No. MC-153320 (Sub-No. 1F) issued May 29, 1981, to KLEEN BRITE LABORATORIES, INC., of Rochester, NY authorizing the transportation of *such commodities* as are dealt in or used by chain grocery stores and food business houses between points in CT, DE, MA, MD, ME, MI, NJ, NH, NY, OH, PA, RI, VA, VT, WV, and DC, on the one hand, and, on the other, those points in NY north of Sullivan, Dutchess, and Ulster Counties. Representative: Herbert M. Canter and Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202. TA lease is not sought. Transferee is not a carrier.

MC-FC-79388. By decision of October 13, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part

1132, Review Board Number 3 approved the transfer to MOTORWAYS (1980) LIMITED of 60 Eagle Drive, P.O. Box 738, Winnipeg, Manitoba, Canada R3C 2L8 of Certificate No. MC-109948 (and Sub-Nos. 1 and 2) issued to MOTORWAYS (ONTARIO) LIMITED of 1151 Martin Grove Road, Rexdale, Ontario, Canada authorizing IRREGULAR ROUTES: *Fresh or green grapes*, from the boundary of the United States and Canada at Niagara Falls and Buffalo, NY to North East, PA, and Westfield, Brockton, and Silver Creek, NY; and *Empty containers and bracing materials* for fresh or green grapes, from the above-specified destination points to the above-specified origin points. *Grape juice*, in containers, from North East, PA, Westfield, Brockton and Silver Creek, NY, to the boundary of the United States and Canada at Niagara Falls and Buffalo, NY; and *Empty containers* for grape juice, from the immediately above-specified destination points to the immediately above-specified origin points. *General commodities*, except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between the port of entry at the United States-Canada Boundary line at or near Sault Ste. Marie, MI, and Sault Ste. Marie, MI. *Frozen vegetables*, from Buffalo, Waterport, and LeRoy, NY to ports of entry on the United States-Canada Boundary line, at or near Buffalo, NY and to the port of entry on the United States-Canada boundary line located in the town of Lewiston, Niagara County, NY, with no transportation for compensation on return except as otherwise authorized. *Meats, meat products, and meat byproducts, dairy products, and articles distributed by meat-packing houses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the United States-Canada Boundary line, at Buffalo and Niagara Falls, NY, and from the port of entry on the United States-Canada Boundary line at the town of Lewiston, Niagara County, NY to points in that part of New York on and west of a line beginning at Port Ontario, NY and extending along New York Highway 13 to Vienna, NY then along New York Highway 49 to Utica, NY then along New York Highway 8 to Deposit, NY then along New York Highway 17 to junction U.S. Highway 11, and then along U.S. Highway 11 to the New York-Pennsylvania State line, that part of Pennsylvania on, west and north of a

line beginning at the Pennsylvania-New York State line, near Tuna, PA, and extending along U.S. Highway 219 through Bradford, PA, to Ebenburg, PA, and then along U.S. Highway 22 through Pittsburgh, PA, to the Pennsylvania-West Virginia State line, and that part of Ohio on, north, and east of a line beginning at the Ohio-West Virginia State line, near Steubenville, OH, and extending along U.S. Highway 22 to junction unnumbered highway (formerly portion U.S. Highway 22), near East Cadiz, OH then along unnumbered highway to Cadiz, OH, then along U.S. Highway 58 to Lorain, OH, with no transportation for compensation on return except as otherwise authorized. *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, Between points in Buffalo, NY; between Buffalo, NY, on the one hand, and, on the other, ports of entry on the boundary of the United States and Canada at Buffalo and Niagara Falls, NY; between Buffalo, NY, and the port of entry on the United States-Canada Boundary line at the town of Lewiston, Niagara County, NY. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402. TA lease is not sought. Transferee is a carrier.

MC-FC-79391. By decision of October 7, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to AMERICAN WAY COACH, INC. of Berlin, NJ of Certificate No. MC-127669 Sub-No. 2 issued on 4/25/68 to CHERRY HILL TRANSIT OF BERLIN, NJ authorizing passengers and their baggage in the same vehicles with passengers, between Cherry Hill Mall, Cherry Hill, NJ and Philadelphia, PA, serving all intermediate points: from Cherry Hill over Haddonfield Road to junction New Jersey Highway 73, thence over New Jersey Highway 73 to Tacony-Palmyra Bridge, thence across Tacony-Palmyra Bridge to Philadelphia, and return over the same route. Representative: Ronald I. Shapss 450 Seventh Ave, New York, NY 10123. TA lease is not sought. Transferee is not a carrier.

MC-FC-79393. By decision of October 8, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to M. B. TRANSPORTS, INC. of Levelland, TX of Certificate No. MC-145786 Sub-No. 2 issued on 1/6/81 to J. M. NATION TRUCKING, INC. of

Pampa, TX transporting machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production and distribution of natural gas and petroleum and their products and byproducts, restricted to the transportation of shipments weighing 5,000 pounds or less, in hot shot service, between named points in TX, on the one hand, and, on the other, named points in OK, NM, KS, LA, WY, UT, CO, ND, restricted against traffic originating at the port facilities of St. Mary, Terrebonne, Jefferson, St. Bernard and St. Charles Parishes, LA. Representative: Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, TX 73254. TA lease is not sought. Transferee is not a carrier.

MC-FC-79394. By decision of 10-5-81, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to CHARLES U. MEHRING, d.b.a. C. U. MEHRING, of Kenmar, MD, of Certificates No. MC-95743 Subs 2, 25, and 26, issued to William F. Mehring & Sons, Inc., of Keymar, MD authorizing named commodities including feeds, lime, stone, fertilizer, solid fuels, and sand, from and to named points in MD, PA, VA, WV, DE, DC. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. TA lease is sought. Transferee is not a carrier.

MC-FC-79396. By decision of October 13, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to V.I.P. DELIVERY SYSTEMS, INC. of 1034 Clark Avenue, St. Louis, MO 63102 of Permit No. MC-140720 (Sub-No. 2) issued FORD PARCEL SERVICE, INC. of 1034 Clark Avenue, St. Louis, MO 63102 authorizing *such merchandise* as is dealt in by retail department stores, between St. Louis, MO, points in St. Louis County, MO, and points in St. Clair, Madison, and Monroe Counties, IL. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract(s), with Sears, Roebuck & Company. Review Board No. 3 also authorized the transfer of Certificate No. MC-140720 (Sub-No. 3) authorizing: To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives), between points in Missouri and Illinois. Representative: B. W. La Tourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. TA lease is not sought. Transferee is not a carrier.

MC-FC-79398. By decision of October 13, 1981, issued under 49 U.S.C. 10926

and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to DOUG'S GLASS SHOP, INC. of 95 South Saw Mill River Road, Elmsford, NY 10523 of Certificate No. MC-140801 issued to KLEIN'S TOWING SERVICE, INC. of 95 Halstead Avenue, Harrison, NY 10528 authorizing: *Motor vehicles and dollies* (except house trailers designed to be drawn by passenger automobiles), by the use of wrecker equipment only, between points in CT, NJ, and NY, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC. Representative: Roy A. Jacobs, 550 Mamoroneck Avenue, Harrison, NY 10528. TA lease is not sought. Transferee is not a carrier.

MC-FC-79401. By decision of October 14, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to JOHN L. NOVAK, d.b.a. SAFEWAY MOTOR FREIGHT COMPANY, of McDonald, OH, of Permit Nos. MC-92550, and MC-92550 (Sub-No. 8) issued March 7, 1951 and June 2, 1976 respectively to J. G. STROCK, d.b.a. SAFEWAY MOTOR FREIGHT COMPANY authorizing the transportation by irregular routes of (1) in MC-92550, *Iron and steel rivets* from Girard, OH to Detroit and Lansing, MI; Ashland, KY; and Parkersburg, WV. Steel Wire from New Brighton, PA to Girard, OH; and (2) in MC-92550 (Sub-No. 8), *iron and steel rods* from Cleveland and Youngstown, OH to New Brighton, PA; under continuing contract(s) with Brainard Rivet Co. of Girard, OH. Representative: Lewis S. Witherspoon, 2455 North Star Road, Suite 100, Columbus, OH 43221.

Note.—Although authority is sought to transfer the pending permit in Sub-No. 9, such pending permit is not susceptible to transfer. Transferee may seek substitution into that proceeding, if it wishes.

Transferee is not a carrier. TA is not sought.

MC-FC-79404. By decision of October 15, 1981 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to MEYERS MOVING & STORAGE, INC., 443 E. South St., Sturgis, MI 49091 of Certificate No. MC-2937 (Sub-No. 1) issued to CLARENCE L. KINNEY, d.b.a. KINNEY TRUCK LINE, 1204 No. Main St., Three Rivers, MI 49093 authorizing *household goods* as defined by the Commission, between points in Kalamazoo and Saint Joseph Counties, MI, on the one hand, and, on the other, Beloit, WI, points in OH and

points in that part of IL and IN on and north of U.S. Hwy 36.

Note.—Although the application form indicates that the entire operating authority under transferor's certificate No. MC-2937, is being transferred, the underlying agreement involves only No. MC-2937 (Sub-No. 1). Representative: None. TA lease is not sought. Transferee is not a carrier.

MC-FC-79405. By decision of October 14, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to INDIVIDUAL TRANSPORTS, INC., of Patriot, IN, of Certificate No. MC-147136 (Sub-Nos. 2, 5, and 6) and Permit No. MC-145965 (Sub-No. 1) issued to TOMORROW TRANSPORTS, INC., of Erlanger, KY authorizing: Plastic film and sleeting, general commodities, overhead garage doors and accessories, valves, from and to named points in KY, CA, SC, TX, AZ, OH, FL, GA, NM, OR, WA; and paper, fiberboard, paperboard, pulpboard containers, and materials, and supplies, from and to points in NY, TX, AZ, CA, IL, VA, under contract with F. N. Burt Co., Inc. Representative: Jerry B. Sellman, 50 W. Broad Street, Suite 1815, Columbus, OH 43215. TA lease is not sought. Transferee is not a carrier.

MC-FC-79406. By decision of October 13, 1981, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to DAVID L. GIENCKE, of Waukesha, WI, of Permit No. MC-141693 (Sub-Nos. 1 and 2) issued to GREGORY LEE JENCEN, d.b.a. AGRARIAN WAY OF WISCONSIN, of Dousman, WI, authorizing the transportation, as a contract carrier, as summarized below: (Sub-No. 1) *Fertilizers and agricultural chemicals and supplies* used in the manufacture and distribution thereof, between specified points in IL, IN, IA, and MN, and WI, under continuing contracts with Farm Better Service, Inc., and (Sub-No. 2) *steel buildings, grain bins, grain drying equipment, and grain and feed handling equipment*, from points in IL, IA, and NE, to points in WI, under continuing contracts with Materials Handling Equipment, Inc. Representative: None.

Note.—Transferee does not hold any authority from this Commission.

MC-FC-79408. By decision of October 14, 1981 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board Number 3 approved the transfer to JEFFERSON PUBLIC TRANSPORTATION BENEFIT AUTHORITY, d.b.a. JEFFERSON TRANSIT AUTHORITY, of Port Townsend, WA, of Certificate of

Registration No. MC-99039 (Sub-No. 1) issued to SANDRA M. STEVENS, d.b.a. STEVENS STAGE LINES, of Port Townsend, WA, authorizing passenger and express service, between Port Townsend and Center, WA; between Port Townsend and Shine, WA, corresponding to Certificate No. 501 transferred and reissued February 22, 1973, by Washington Utilities and Transportation Commission. Condition: Proof of transfer to transferee of the underlying intrastate rights must be furnished to the Commission. Representative: Peter Badame, P.O. Box 908, Port Townsend, WA 98368. TA lease is not sought. Transferee is not a carrier.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31187 Filed 10-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 187]

Motor Carriers; Restriction Removals; Decision-Notice

Decided: October 21, 1981.

The following restriction removal applications filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applicants may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.
Agatha L. Mergenovich,
Secretary.

MC 41406 (Sub-177)X, filed July 10, 1981 previously noticed in the Federal Register of September 17, 1981, republished as corrected in this issue. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 8400 West Lake Drive, Merrillville, IN 46410. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001-4594, (202) 628-9243. Applicant seeks to remove restrictions from numerous subs in Docket No. MC-41406. The purpose of this republication is to give notice of a territorial expansion which was omitted in the initial publication, and to correct notice of another territorial expansion. In Sub-Nos. 47, 52M1F and 53G, applicant seeks to broaden points in Kentucky within 5 miles of the Ohio River, to points in Boyd, Greenup, Lewis, Mason, Bracken, Campbell, Kenton, Boone, Gallatin, Trimble, Oldham, Jefferson, Bullitt, Meade, Breckenridge, Hancock, Daviess, Anderson, Union, Crittenden, Livingston, McCracken and Broward Counties, KY; and in Sub-No. 148F, applicant seeks to replace Houston, TX with points in Harris, Brazoria, Galveston, Chambers, Liberty, San Jacinto, Ft. Bend, Montgomery, and Waller Counties, TX.

MC 87689 (Sub-19)X, filed October 6, 1981. Applicant: INTER-CITY TRUCK LINES (CANADA), INC., P.O. Box 900, Toronto, Ontario, CN M8Z 2R3. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. In lead and Subs 4, 6, 9, 10, 11, 13, 15F, and 16F: (A) broaden commodity descriptions (1) from "general commodities (with usual exceptions)" to "general commodities (except Classes A and B explosives)"; (2) from bronze wire to "metal products"; (3) from air-conditioning equipment to "Metal products, machinery, and electrical equipment"; (B) remove "originating at or destined to points in Canada" in lead and Subs 9, 11, and 15F; (C) authorize service at all intermediate points on regular routes in Lead and Sub 6, and 13, and convert off-route points to countywide (1) Lead, Fort Niagara, to Niagara County, NY (2) Sub 9, Willow Run Airport near Ypsilanti, to Washtenaw County, MI; (3) Sub 10, facilities at Romeo, to Macomb County, MI; and (4) Sub 16F, Ashwood, Barre Center, Clarendon, Eagle Harbor, East Shelby, Hulberton, Kenyonville, Kent, Knowlesville, Lyndonville, Millville, Waterport, and Yates, to Orleans

County, NY; Barker, McNalls, and Royalton, to Niagara County, NY; Adams Basin, Hamlin, and Elmgrove, NY, to Monroe County, NY; and Getzville, NY, to Erie County, NY; (D) expand (1) Lead, Niagara Falls, to Niagara County, NY; Buffalo, to Erie and Niagara Counties, NY; and Detroit, MI, and points in MI within 8 miles thereof to Macomb, Monroe, Oakland, Washtenaw, and Wayne Counties, MI; (2) Sub 4, Buffalo, to Erie and Niagara Counties, NY; and Sub 11, Port Huron, to St. Clair County, MI; (E) substitute ports of entry on the International Boundary line between the United States and Canada located in NY for ports of entry in Niagara Falls and Buffalo, NY, in lead and Sub 4; and ports of entry on the International Boundary line between the United States and Canada located in MI for Port Huron, MI, port of entry in Sub 11; (F) remove ex-air restriction in Sub 9, and those limiting operations performed under Sub 11 to the transportation of shipments interchanged with other carriers; and (G) authorize radial operations in place of one-way Sub 16F.

MC 105566 (Sub-252)X, filed October 8, 1981. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincoln Road, Alexandria, VA 22312. Sub 173F: Broaden (1) chemicals (except in bulk) to "chemicals and related products", (2) replace one-way authority with radial authority, (3) broaden to city-wide and county-wide authority: Los Angeles, CA (facilities at Los Angeles, CA); Tampa, FL (facilities at Tampa); Atlanta, GA (facilities at Atlanta); Cleveland, OH (for facilities at Cleveland); Portland, OR (facilities at Portland); Los Angeles County, CA (facilities at City of Industry); Santa Rosa County, FL (facilities at Pace); Marshall County, KY (facilities at Calvert City, KY); Iberville Parish, LA (facilities at Saint Gabriel, LA); Cecil County, MD (facilities at Elkton, MO); Somerset County, NJ (facilities at Finderne, NJ); Middlesex County, NJ (facilities at Middlesex and South Brunswick, NJ); Gloucester County, NJ (facilities at Paulsboro, NJ) and Harris County, TX (facilities at Pasadena, TX) and (4) remove the Chicago, IL exception.

MC 116280 (Sub-30)X, filed October 7, 1981. Applicant: W. C. McQUAIDE, INC., 153 Macridge Ave., Johnston, PA 15904. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48084. Lead and Subs 4, 6, 7, 10, 11, 13, 20F and 24F: (A) Broaden from (1) iron and steel, and iron and steel articles to "metal products and

machinery", lead; (2) radiators and radiator parts to "transportation equipment," from boilers and boiler parts to "machinery," Sub 6; (3) yarn to "textile mill products", Sub 7; (4) wearing apparel to "such commodities as are dealt in or used by manufacturers of wearing apparel", Sub 11; and, (5) paper, carbon paper, tickets, automatic register paper, and paper forms to "pulp, paper and related products, and printed matter", Sub 13; (B) remove (1) all exceptions in the general commodities description, except classes A and B explosives, Subs 4, 10 and 24F; (2) "size or weight" and/or "interchange" restrictions, lead and Sub 20F; (3) restrictions prohibiting or limiting service to the transportation of shipments (a) having a prior, subsequent, or immediately prior movement by air or rail, Subs 4, 7, 10 and 20F; (b) to a specified point, Sub 10; and (c) moving from, to, or between warehouses, and wholesale, retail, or chain outlets of grocery and food business houses, Sub 6; (C) Broaden to county-wide or city-wide authority: (1) Johnstown, PA and points within 10 miles thereof—Somerset, Cambria, Westmoreland, and Indiana Counties, PA; Townwanda, NY—Erie County, NY; Battle Creek, Bay City, Caro, Charlotte, Dearborn, Durand, Flint, Grand Rapids, Holly, Kalamazoo, Lansing, Midland, Monroe, Mt. Pleasant, Port Huron, Saginaw and Ypsilanti, MI—Calhoun, Bay, Tuscola, Eaton, Wayne, Shiawassee, Genesee, Kent, Oakland, Kalamazoo, Ingham, Clinton, Midland, Monroe, Isabella, St. Clair, Saginaw and Washtenaw Counties, MI, lead; (2) specified airport—Allegheny County, PA, Sub 4; (3) Johnstown, PA—Cambria, Somerset, Indiana and Westmoreland Counties, PA; Trenton, NY—Mercer County, NJ; and New Castle, PA—Lawrence County, PA, Sub 6; (4) specified airport—Philadelphia, PA; and Duncansville, PA—Blair County, PA, Sub 7; (5) Johnstown, PA—Cambria, Somerset, Indiana and Westmoreland Counties, PA, Sub 10; and (6) Sidman, PA—Cambria County, PA, Sub 13; and, (D) Broaden to radial authority, lead and Subs 6, 7, 10, 11, and 13.

MC 120866 (Sub-7)X, filed October 14, 1981. Applicant: THE TIMLAPH CORP. OF VIRGINIA, P.O. Box 34159; Richmond, VA 23234. Representative: Stanley E. McCormick, Suite 1301, 1600 Wilson Boulevard; Arlington, VA 22209. Subs 2, 3, and 6: Broaden petroleum and petroleum products and liquid corn products, in bulk, in tank vehicles to "commodities in bulk"; replace one-way authority with radial authority; (Sub 2) replace facilities in Halifax County, NC

with Halifax County and facilities at Yorktown with York County, VA; (Sub 3) facilities at Wilmington with New Hanover County, NC, and expand Elkton, Dublin, Orange and Brookneal to Rockingham, Pulaski, Orange, and Campbell Counties, VA, respectively; (all Subs) eliminate "in tank vehicles."

MC 123872 (Sub-130)X, filed October 9, 1981. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28603. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison, McLean, VA 22101. Sub 126X (underlying authority in Sub 119F): Broaden tape to "pulp, paper, and related products."

MC 136123 (Sub-30)X, filed September 25, 1981. Applicant: MD TRANSPORT SYSTEMS, INC., P.O. Box 1058, Palmetto, FL 33561. Representative: David M. Kuehl (same as above). Sub-No. 8: broaden Irving and Saginaw, TX, to Dallas and Tarrant Counties, TX.

MC 143857 (Sub-2)X, filed October 13, 1981. Applicant: VAN DE HOGEN CARTAGE, LIMITED, 2590 Dougall Avenue, Windsor, Ontario, Canada N8X 1T7. Representative: William J. Hirsch, 43 Court St., Buffalo, NY 14202. Sub-No. 1F: Broaden sand and lumber and lumber products, to "ores and minerals, clay, concrete, glass, or stone products, and lumber and wood products."

MC 149193 (Sub-1)X, filed July 17, 1981, previously noticed in the Federal Register on July 31, 1981, republished as follows: Applicant: AUBRY TRANSPORTATION, INC., P.O. Box 216, Yorkshire, NY 14173. Representative: William J. Hirsch, P.C., 1125 Convention Tower, 43 Court Street, Buffalo, NY 14202. Sub-No. 1: Broaden Buffalo, NY to Erie and Niagara Counties NY. The purpose of this republication is to correct the territorial description.

MC 150170 (Sub-4)X, filed October 7, 1981. Applicant: METRO SALES COPR., P.O. Box 1861, Sanford, FL 32771. Representative: John P. Dodge, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. MC-139108 (Subs. 1, 3, 4, and 5F) permits and MC-150170 (Subs 1F and 2F) certificates (1) broaden commodity descriptions (a) from such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses and agricultural feed business houses, soy products, paste products, flower products (correctly: flour products), and dairy based products, and materials, ingredients, equipment and supplies used in development, manufacture, distribution of same (except commodities in bulk) to, "Such commodities as are dealt in by

wholesale, retail, or chain food or grocery businesses and agricultural feed businesses, and food and related products", in MC-150170 (Sub-No. 1F); (b) from steel office furniture and equipment to "furniture and fixtures" in MC-139108 (Subs 1 and 3); (c) from tires and tubes to "rubber and plastic products" in MC-139108 (Subs 4 and 5F); (2) broaden territory in all permits to "between points in the United States under contract(s) with named shippers; and (3) remove restrictions against commodities in bulk from both certificates.

[FR Doc. 81-31185 Filed 10-27-81; 8:45 am]

BILLING CODE 7035-01-M

Long-and-Short-Haul Application for Relief (Formerly Fourth Section Application)

October 22, 1981.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before November 12, 1981.

FSA No. 43940, Southwestern Freight Bureau, Agent (No. B-140) reduced rates on Roofing and Building materials, from points in Southwestern Territory to points in Southern Territory, in Supplement 71 to its Tariff ICC SWFB 4693, effective November 12, 1981. Grounds for relief—Increased Revenues to offset operating expenses.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-31177 Filed 10-27-81; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. OPY-2-201]

Motor Carriers Permanent Authority; Decision-Notice

Decided: October 20, 1981.

The following applications, filed on or after February 9, 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from

applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members, Parker, Chandler and Fortier.
Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those

where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

MC 153302 (Sub-2), filed October 5, 1981. Applicant: M. E. HALL d.b.a. HALL TRUCKING COMPANY, 88 West Middle St., Montevallo, AL 37155. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, 615-790-2510. Transporting for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munition), between points in the U.S.

MC 158622, filed October 5, 1981. Applicant: LEONARD N. CRUSE d.b.a. LEONARD CRUSE TRUCKING, 4403 Stone St., Billings, MT 59101. Representative: Leonard N. Cruse (same address as applicant), 406-259-5321. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 158672, filed October 6, 1981. Applicant: VIRGIL L. MILLER, 4700 So. 5th, Space 45, Pocatello, ID 83201. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 233-4246. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 158713, filed October 8, 1981. Applicant: JOHN E. HUTCHINS d.b.a. PRODUCE SUPPLY EXPRESS, 804 W. 25th, Spokane, WA 99203. Representative: John E. Hutchins (same address as applicant), (509) 747-1483. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

[FR Doc. 81-31184 Filed 10-27-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by special rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal

Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate of foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY-2-199

Decided: October 16, 1981.

MC 113362 (Sub-421), filed October 7, 1981. Applicant: ELLSWORTH FREIGHT LINES, INC., 301 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912 (507) 443-3427. Transporting (1) *pulp, paper and related products, printed matter, food and related products, chemicals, petroleum products, and such commodities* as are dealt in or used by department stores and automotive service centers, between points in AZ, CA, CO, ID, MT, NV, NM, OR, UR, WA, and WY, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (2) *general commodities* (except classes A and B explosives), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 115523 (Sub-206F), filed October 1, 1981. Applicant: CLARK TANK LINES COMPANY, 1450 N. Beck St., Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same as applicant). Transporting *chemicals and related products, and petroleum, natural gas and their products*, between points in the U.S.

MC 125522 (Sub-13), filed October 5, 1981. Applicant: SUNBURY TRANSPORT LIMITED, P.O. Box 3217, Station B, Fredericton, New Brunswick, Canada E3A 5G9. Representative: Fritz R. Kahn, Suite 1100, 1660 L St. NW, Washington, DC 20036, 202-452-7400. Transporting *pulp, paper and related products*, between points in ME, VT, NH, MA, RI, NY, CT, NJ, PA, ND, DE, WV, VA, NC, SC, GA, FL, AL, MS, LA, TN, KY, OH, IN, IL, WI, MI, and DC.

MC 129453 (Sub-2), filed October 6, 1981. Applicant: STARCK VAN LINES OF COLUMBUS, INC., 3901 Grove Port Rd., Columbus, OH 43207. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW, Suite 1200, Washington, DC 20036, 202-785-0024. Transporting *household goods* (1) between points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH,

NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC, and (2) between points in AL, CT, DE, FL, GA, IL, IN, KY, ME, MD, MA, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, NO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, WY, and DC. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 145113 (Sub-3F), filed October 6, 1981. Applicant: PLANTATION FOODS, INC., P.O. Box 887, Waco, TX 76703. Representative: Nelson M. "Mike" Davidson, Jr., P.O. Box 1148, Austin, TX 78767 (817) 799-6211. Transporting (1) *cartons, paperboard, display racks and stands, plastic film, plastic sheeting, partitions, signs, and machinery*, between points in the U.S. under continuing contracts(s) with Mead Packaging, of Atlanta, GA. (2) *Christmas tree light strings, Christmas ornaments, and boxes*, between points in the U.S., under continuing contract(s) with New York Merchandise Company, of New York, NY. (3) *Strapping, staples, and stitching wire*, between points in the U.S., under continuing contract(s) with Delta Strapping Corporation, of Longview, TX.

MC 146853 (Sub-10), filed October 5, 1981. Applicant: FRANK F. SLOAN d.b.a. HAWKEYE WOODSHAVINGS, Rte. 1, Runnells, IA 50327. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, 515-244-2329. Transporting *petroleum oil*, between Denver, CO, on the one hand, and, on the other, points in Douglas County, NE, and points in ND, SD, and WY.

MC 147642 (Sub-2), filed October 6, 1981. Applicant: TRANSPORT LEASING, INC., P.O. Box 1904, Ft. Smith, AR 72901. Representative: Charles H. Schmidly, P.O. Box 1787, Ft. Smith, AR 72901 (501) 785-2943. Transport *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Sebastian and Crawford Counties, AR, on the one hand, and, on the other, points in OK.

MC 153282 (Sub-2), filed October 2, 1981. Applicant: FINLEY TANK TRUCKING, INC., Rt. #1, Box 1190, Parma, ID 83660. Representative: Jack Finley (same address as applicant) 208-722-5535. Transporting *petroleum, natural gas and their products*, between points in ID, WA, OR, NV, UT, MT, and WY.

MC 153613 (Sub-1), filed September 25, 1981. Applicant: LELAND V. ROPER d.b.a. ROPER & SONS TRUCKING, c/o MORGAN & SEETCH ACCOUNTING, P.O. Box 1166, Sterling, CO 80751. Representative: Leland V. Roper (same as applicant) (303) 522-0892. Transporting *carcass and packaged processed beef*, between points in the U.S., under continuing contract(s) with Sterling Colorado Beef Co., of Sterling, CO.

MC 155062, filed October 6, 1981. Applicant: AVERY PRUITT AND SON, INC., Rte. 1, Box 1A, Jasper, AR 72641. Representative: Jay C. Miner, P.O. Box 313 Harrison, AR 72601, 501-446-5289. Transporting (1) *charcoal briquettes*, between points in Taney County, MO, on the one hand, and on the other, points in the U.S., (2) *office and school equipment and furniture*, between points in Faulkner County, AR, on the one hand, and, on the other, points in the U.S., (3) *lumber, lumber products and treated wood products*, between in Boone and Newton Counties, AR, on the one hand, and, on the other, points in the U.S., and (4) *such commodities* as are dealt in by farm supply houses and chain grocery stores, between points in TX, OK, LA, MO, and KS, on the one hand, and, on the other, points in AR.

MC 155913 (Sub-2), filed September 28, 1981. Applicant: SELDEN AND SPENCER, INC., Route 661, Chance, VA 22439. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229, 804-282-3809. Transporting *building materials, forest products, lumber or wood products, pulp, paper and related products, metal products and clay, concrete or stone products*, between the facilities of Wyerhaeuser Company at those points in the U.S. in and east of ND, SD, NE, KS, OK and TX, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 157443, filed October 6, 1981. Applicant: DWAYNE HOBBS d.b.a. HOBBS TRUCKING, P.O. Box 12, Ewing, NE 68735. Representative: James F. Crosby & Associates, 7363 Pacific St., Suite 210B, Omaha, NE 68114 (402) 397-9900. Transporting *such commodities* as are used or dealt in by manufacturers or distributors of fertilizer and fertilizer materials, between points in NM, OK

and TX, on the one hand, and, on the other, points in NE.

MC 157703, filed October 6, 1981. Applicant: PACIFIC MIDWEST, INC., 5041 Woodcrest Rd., White Bear Lake, MN 55110. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, 612-457-6889. Transporting *paper products*, between points in St. Croix County, WI, Kenton County, KY, Hillsborough County, FL, Cameron County, TX, and Wayne County, MI, on the one hand, and, on the other, points in the U.S.

MC 158412, filed September 23, 1981. Applicant: HAROLD MARCUS LIMITED, Rural Route #3, Bothwell, Ontario, Canada NOP 1C0. Representative: Wilhelmina Boersma, 1600 1st Federal Bldg., Detroit, MI 48226, 313-962-6492. Transporting *waste materials*, between ports of entry on the International Boundary line between the U.S. and Canada in MI and NY, on the one hand, and, on the other, points in MI, OH, PA, NY, IL, IN, WI, MO, KY, MD, NH, MA, ME, RI, VT, and CT.

MC 158513, filed September 29, 1981. Applicant: HERMAN L. IRVIN, d.b.a. IRVIN MOTOR TRANSPORT, 1981 Flat Shoals, RD, Atlanta, GA 30316. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237 (404-477-1525). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of bakery products, between points in the U.S., under continuing contract(s) with Borck's Country Home Bakery, Inc., of Atlanta, GA.

MC 158633, filed October 5, 1981. Applicant: TAYLOR & ROZIER, INC., 411 North Church St., Alma, GA 31510. Representative: Lamar Rozier (same address as applicant) 912-632-5771. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Albaco Foods, Inc., of Alma, GA.

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Decided: October 20, 1981.

FF-573, filed October 8, 1981. Applicant: ALLIED CONSOLIDATED CONTAINER, INC., One World Trade Center, Suite 2527, New York, NY 10048. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, 201-435-7140. As a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives), between points in the U.S.

MC 105733 (Sub-88), filed October 7, 1981. Applicant: RITTER TRANSPORTATION, INC., P.O. Box 1064-A, Rahway, NJ 07065. Representative: Chester A. Zyblut, 366

Executive Bldg., 1030 Fifteenth St., N.W., Washington, D.C. 20005, 202-296-3555. Transporting *general commodities* (except household goods and classes A & B explosives), between points in the U.S., under continuing contract(s) with J. T. Baker Chemical Company, of Phillipsburg, NJ.

MC 150813 (Sub-280F), filed October 9, 1981. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th St., P.O. Box 270, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North La Salle St., Chicago, IL 60601, (312) 332-5106. Transporting *general commodities* (except household goods and classes A and B explosives), between points in Columbiana County, OH, on the one hand, and, on the other, points in NC, SC, GA and FL.

MC 107012 (Sub-747), filed October 6, 1981. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), (219) 429-2110. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Triangle Pacific Corporation, of Dallas, TX.

MC 124673 (Sub-66), filed October 8, 1981. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Amarillo, TX 79105. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768, 512-476-6083. Transporting *commodities in bulk*, between points in AR, AZ, CO, IA, IL, KS, LA, MN, MO, NE, NM, OK, TX, WI, and WY.

MC 128153 (Sub-7), filed October 8, 1981. Applicant: VICTORY VAN CORPORATION, 950 South Pickett St., Alexandria, VA 22304. Representative: Alan F. Wohlstetter, 1700 K St. NW, Washington, DC 20006, 202-833-8884. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in DE, MD, NC, VA, WV, and DC, on the one hand, and, on the other, New York, NY, Boston, MA, Wilmington, DE, Philadelphia, PA, Baltimore, MD, Norfolk, VA, Wilmington, NC, Charleston, SC, Savannah, GA, and Jacksonville, Miami, and Tampa, FL.

MC 141652 (Sub-49), filed October 9, 1981. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 39208. Representative: K. Edward Wolcott, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree St., N.E., Atlanta, GA 30303, (404) 552-2322. Transporting *chemicals and related products*, between points in Jackson County, MS, on the one hand,

and, on the other, points in CA, NJ, MO, IN, WV, WA, NC, MA, CO and TX.

MC 141742 (Sub-18), filed October 8, 1981. Applicant: FLOWERS TRANSPORTATION, INC., P.O. Box B, Station A, Auburn, CA 95603. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111, (415) 986-1414. Transporting *metol products*, between points in Leon County, TX, on the one hand, and, on the other, points in the U.S.

MC 142603 (Sub-59), filed October 6, 1981. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 179, Springfield, MA 01101. Representative: Barbara J. Withers (same address as applicant), (413) 732-6283. Transporting *paper and paper products, ink copying machines, tope, computer disc packs, and chemicols*, between points in the U.S., under continuing contract(s) with the Nashua Corporation, or Nashua, NH.

MC 142603 (Sub-60), filed October 7, 1981. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 179, Springfield, MA 01101. Representative: Tami L. Quinlan (same address as applicant), (413) 732-6283. Transporting *chemicals and related products, plostic, photographic paper and film*, between points in the U.S., under continuing contract(s) with the Ciba-Geigy Corporation, of Ardley, NY.

MC 142672 (Sub-183), filed October 5, 1981. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Box 1065, Mulberry, AR 72947. Representative: Don Garrison (Same address as applicant), 501-521-8121. Transporting *such commodities* as are dealt in or used by chain grocery and food business houses, hardware, discount, drug, variety and department stores, between points in GA, LA, MS and TX.

MC 146723 (Sub-6), filed October 8, 1981. Applicant: J. C. BANGERTE & SONS, INC., 1265 North Main St., Bountiful, UT 84010. Representative: Harry D. Pugsley, 940 Donner Way #370, Salt Lake City, UT 84108, (801) 581-0322. Transporting *such commodities* as are dealt in by grocery and food business houses between points in UT, ID, MT, CO, NM, AZ, WY, NV, CA, OR and WA.

MC 147573 (Sub-2), filed October 8, 1981. Applicant: OAK ISLAND EXPRESS, INC., 2 Sixth St., Jersey City, NJ 07302. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505, (717) 342-7595. Transporting *generol commodities* (except classes A and B explosives), between points in the U.S.,

under continuing contract(s) with May Co., of St. Louis, MO.

MC 147923 (Sub-1), filed October 6, 1981. Applicant: MARINE TRANSPORTATION INTERMODAL, INC., dba M T I, INC., 15 Prospect Lane, Colonia, NJ 07067. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, 201-572-5551. Transporting *generol commodities* (except classes A and B explosives), between Baltimore, MD, Boston, MA, New York, NY, Norfolk, VA and Philadelphia, PA, on the one hand, and, on the other, points in CT, DE, MA, MD, NJ, NY, PA, RI, VA and DC.

MC 148632 (Sub-9), filed October 7, 1981. Applicant: DIXON MOTOR FREIGHT, INC., 2620 Old Egg Harbor Rd., Lindenwold, NJ 08021. Representative: Gary V. Dixon (Same address as applicant), 609-797-5885. Transporting *lumber and wood products, moldings, asphalt roofing materials*, between points in OH, VA, NJ, and PA, on the one hand, and, on the other, points in OH, VA.

MC 152053, filed October 5, 1981. Applicant: MAURICE E. WHITCHURCH, dba WHITCHURCH & SON, 1230 Bruce St., Chico, CA 95926. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701, 702-882-5649. Transporting *building materials*, between points in OR, WA, ID, NV, CA, MT, WY, UT, AZ, NM and CO.

MC 152183 (Sub-3), filed October 9, 1981. Applicant: FLAMINGO TRANSPORT, INC., P.O. Box 890, Adairsville, GA 30103. Representative: Frank Linn (same address as applicant), (404) 382-5852. Transporting *metol products*, between Boise, ID, Chicago, IL, Cleveland, OH, Kansas City and St. Louis, MO, Seattle and Spokane, WA, Tulsa, OK, and points in Lawrence and Morgan Counties, AL, Pinal County, AZ, Alameda, Los Angeles, Riverside, San Bernardino, Tulare, and Yolo Counties, CA, Larimer County, CO, Hillsborough, Marion, and Orange Counties, FL, Clayton and Fayette Counties, GA, Twin Falls County, ID, Grundy and Kane Counties, IL, Boone, Elkhart, Johnson, Knox, and St. Joseph Counties, IN, McPherson County, KS, Carroll County, KY, Frederick County, MD, Middlesex County, MA, Chippewa County, MN, Berrien and Oakland Counties, MI, De Soto County, MS, Bergen County, NJ, Chautauqua County, NY, Catawba and Rockingham Counties, NC, Allen County, OH, McIntosh County, OK, Lane and Marion Counties, OR, Columbia County, PA, Berkeley County, SC,

Yankton County, SD, Dallas, Grayson, and Tarrant Counties, TX, Rockingham County, VA, Whatcom County, WA, and Marathon and Wood Counties, WI, on the one hand, and, on the other, points in the U.S.

MC 157122, filed October 9, 1981. Applicant: MICHAEL D. SMITH, dba M & S TRANSFER, 2371 34th St., Moline, IL 61265. Representative: Carl E. Munson, 469 Fischer Bldg., (319) 557-1320. Transporting *electric motors and welders*, between points in Rock Island County, IL, on the one hand, and, on the other, points in IA, and NE.

MC 157603, filed October 7, 1981 (correction), previously published in the FR issue of August 28, 1981, and republished, as corrected, this issue. Applicant: BOISE SCHOOL BUS & CHARTER SERVICE, 1109 Borah St., Boise, ID 83702. Representative: Terry R. Kirkman (same address as applicant), (208) 345-0159. Transporting *passengers and their boggoge*, in the same vehicle with passengers, in charter operations, beginning and ending at points in ID and extending to points in the U.S. NOTE: This republication corrects the territory description.

MC 158122, filed September 8, 1981. Applicant: INLAND TRUCKING, INC., 3013 N. 36th St., Tampa, FL 33605. Representative: Herman Richardson (same address as applicant), (813) 248-8634. Transporting (1) *metol products*, between points in NY, MI, IL, GA, PA, AL, NC, and SC, on the one hand, and, on the other, points in FL, NC, SC, GA, and AL; and (2) *lumber and forest products*, between points in WA, OR, MT, GA, and AL, on the one hand, and, on the other, points in AL, GA, and FL.

MC 158502, filed September 28, 1981. Applicant: TIDEWATER COMMERCIAL DELIVERIES, INC., 600 Copeland Dr., Hampton, VA 23661. Representative: John C. Warley, Jr., 6060 Jefferson Ave, Newport News, VA 23605. Transporting *generol commodities* (except classes A and B explosives), between points in the U.S., Under continuing contract(s) with Taylor Parker Co., Inc., of Norfolk, VA, Graybar Electric Supply Co., Inc., of Richmond, VA, Whitaker-General Scientific, of Richmond, VA, Automatic Data Processing, of Rockville, MD and Westinghouse Electric Supply Co., of Pittsburgh, PA.

MC 158583, filed October 9, 1981. Applicant: RICHARDS BROS. TRANSPORT, LTD., Route 4, Box 293, Fort Atkinson, WI 53583. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd.,

Madison, WI 53719, (608) 273-1003. Transporting *petroleum, natural gas, and their products*, between points in the U.S., under continuing contract(s) with (a) U.S. Petroleum Co., Inc., (b) Interstate Oil Corp., and (c) Hodge Aero, Inc., all of Janesville, WI.

MC 158643, filed October 6, 1981.

Applicant: ALLEN METCALF MOVING & STORAGE CO., INC., 1255 E. Hwy 36, St. Paul, MN 55109. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036, (202) 484-0211. Transporting *household goods*, (1) between points in ND, SD, MT, WY, WI, IA, IL, IN, MI, OH, TX, MO, OK, and MN, and (2) between points in ND, SD, MT, WY, WI, IA, IL, IN, MI, OH, TX, MO, OK, and MN, on the one hand, and, on the other, points in OR, ID, WA, NE, CO, KS, AR, and LA.

MC 158652, filed October 6, 1981.

Applicant: ROBERT MICHAEL YELTON dba YELTON TRUCKING, 403 Clark St, Bellefontaine, OH 43311. Representative: Robert Michael Yelton (Same address as applicant), 513-593-0222. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Liberty Machine Products, Inc., of West Liberty, OH.

MC 158663, filed October 6, 1981.

Applicant: SHAPMAX FREIGHTLINES, INC., 12645 Mid Ranch Lane, Lakeside, CA 92040. Representative: William R. Daly, 4340 Vandever Ave. Suite S, P.O. Box 20597, San Diego, CA 92120, 714-282-7337. Transporting *general commodities* (except classes A and B explosives), between the ports of entry on the international boundary line between the U.S. and the Republic of Mexico at points in San Diego and Imperial Counties, CA, on the one hand, and, on the other, points in San Diego, Orange, Los Angeles, Imperial, Riverside, and San Bernardino Counties, CA.

MC 158703F, filed October 9, 1981.

Applicant: BATCO, INC., Gravelly Rd., P.O. Box 703, Pickens, SC 29671. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328, (404) 256-4320. Transporting *electrical equipment*, between points in Pickens and Oconee Counties, SC, on the one hand, and, on the other, points in the U.S.

MC 158712, filed October 9, 1981.

Applicant: DELOISE HAWKINS, 1024 Mignonette, Rancho Cucamonga, CA 91701. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108, 717-233-5731. Transporting *such commodities* as are dealt in or used by discount stores, between points in the U.S., under continuing contract(s) with

Hardware Designers, Inc., of Mt. Kisco, NY.

[FR Doc. 81-31186 Filed 10-27-81; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Joint Research Committee of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the forty-first meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development (BIFAD) on November 16 and 17, 1981.

The Executive Committee of the Joint Research Committee will meet from 8:30 a.m. to 11:30 a.m. on November 16, at the Holiday Inn, Dynasty Room, 1850 N. Fort Myer Drive, Rosslyn, Virginia; to receive and update on the Collaborative Research Support Program (CRSP) and consider interactions of JRC with AID in determining research needs, setting priorities, and planning research.

The full Joint Research Committee will meet from 1:00 p.m. to 4:30 p.m. on November 16, and 8:30 a.m. to 4:00 p.m. on November 17, at the Holiday Inn, Dynasty Room, 1850 N. Fort Myer Drive, Rosslyn, Virginia. The purpose of this meeting is to receive and act on recommendations from the Planning Entities for the Peanut and Pond Dynamics CRSPs, and the proposal for a cooperative research program between U.S. research institutions and International Agricultural Research Centers; to consider priorities, training activities in AID, and research needed for food production in Africa.

The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meetings; or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meetings permit.

Dr. James Nielson, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meetings. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Department of State, Washington, D.C. 20523 or telephone him at (202) 632-7935.

Dated: October 22, 1981.

James Nielson,

A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 81-31147 Filed 10-27-81; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-100]

Certain Thermal Conductivity Sensing Gem Testers and Components Thereof; Addition of Three Respondents and Termination of Investigation With Respect to Two Respondents

AGENCY: International Trade Commission.

ACTION: Addition of three respondents and termination of two respondents.

AUTHORITY: The authority for the Commission action in this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.22.

SUMMARY: Notice is hereby given that the Commission has granted the joint motion of the parties to amend the notice of investigation to add Brunit Trading AB, of Stockholm, Sweden, Presidium, Inc., of Saugus, Calif., and Presidium Diamond Pte Ltd., of Singapore, as respondents in this investigation, and to terminate the investigation with respect to respondents Presidium Diamonds Pte Ltd., of South Africa, and Lien International Trading Pte Ltd., of Singapore.

SUPPLEMENTARY INFORMATION: On May 20, 1981, the Commission, upon receipt of a complaint filed by Ceres Electronics Corp., Adams-Smith, Inc., and MSB Industries, Inc., published in the Federal Register (46 FR 27586) notice of an investigation to determine whether there is a violation of section 337(a) of the Tariff Act of 1930 in the importation of certain thermal conductivity sensing gem testers and components thereof into the United States, or in their sale, by reason of alleged (1) infringement by said thermal conductivity sensing gem testers of claims 21, 22, or 26 of U.S. Letters Patent 4,255,962; (2) infringement of claims 1, 2, 23, or 24 of U.S. Letters Patent 4,255,962 in the operation of said thermal conductivity sensing gem testers and the inducement of and/or contribution to said infringement; and (3) false advertising concerning such gem testers. The complaint also alleges

that the effect or tendency of such unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

On August 25, 1981, the parties filed a joint motion to amend the notice of investigation to add Brunit Trading AB, of Stockholm, Sweden, Presidium, Inc., of Saugus, Calif., and Presidium Diamond Pte Ltd., of Singapore, as respondents in this investigation, and to terminate the investigation with respect to respondents Presidium Diamonds Pte Ltd., of South Africa, and Lien International Trading Pte Ltd., of Singapore. The administrative law judge certified the motion to the Commission with the recommendation that it be granted. There was no opposition to the proposed amendments.

Any party wishing reconsideration of the Commission's action must do so within fourteen (14) days of service of the Commission order. Any such petition must be in accord with the Commission's rules of practice and procedure (19 CFR 210.56).

Copies of the Commission's Action and Order and any other public documents in this investigation are available for inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Notice of the institution of this investigation was published in the Federal Register of May 20, 1981 (46 FR 27586).

FOR FURTHER INFORMATION CONTACT: Scott M. Daniels, Esq., Office of General Counsel, telephone 202-523-0480.

Issued: October 23, 1981.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 81-31265 Filed 10-27-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-100]

Certain Thermal Conductivity Sensing Gem Testers and Components Thereof; Cancellation of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference scheduled for November 2, 1981 and the hearing scheduled to commence immediately thereafter (46 FR 49679, October 7, 1981) are cancelled.

The Secretary shall publish this notice in the Federal Register.

Issued: October 21, 1981.

Janet D. Saxon,
Administrative Law Judge.

[FR Doc. 81-31264 Filed 10-27-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-97]

Certain Steel Rod Treating Apparatus and Components Thereof; Denial of Motion for Dismissal

AGENCY: International Trade Commission.

ACTION: Denial of motion for dismissal.

SUPPLEMENTARY INFORMATION: Pursuant to section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, the Commission is currently conducting an investigation of alleged unfair acts and unfair methods of competition in connection with the importation or sale of certain steel rod treating apparatus and components thereof.

Notice of the institution of this investigation was published in the Federal Register of January 28, 1981 (46 FR 9263).

On June 2, 1981, the Commission amended the notice of investigation to add as parties respondent Mr. Willy Korf, of Baden-Baden, Federal Republic of Germany, and Mr. Johann Heinrich Rohde, of Ratingen, Federal Republic of Germany (46 FR 30739).

On June 24, 1981, Mr. Korf and Mr. Rohde moved (Motion No. 97-51) to dismiss the complaint against them for improper service of the notice of investigation. The Commission has denied the motion.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 523-0375.

Issued: October 22, 1981.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 81-31263 Filed 10-27-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-42 (Final)]

Motorcycle Batteries From Taiwan; Final Antidumping Investigation

AGENCY: International Trade Commission.

ACTION: Institution of final antidumping investigation.

SUMMARY: As a result of a preliminary determination by the United States Department of Commerce that there is a

reasonable basis to believe or suspect that exports of motorcycle batteries from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-42 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. For the purposes of this investigation, motorcycle batteries are defined as lead-acid storage batteries principally dedicated for use in motorcycles, having a nominal output of 6 or 12 volts and rated between 2 and 28 ampere-hours (10-hour discharge rate), as provided for in item 683.10 of the Tariff Schedules of the United States. This investigation will be conducted according to the provisions of Part 207, Subpart C, of the Commission's rules of practice and procedure (19 CFR Part 207, 44 FR 76458).

EFFECTIVE DATE: October 14, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. David Coombs, Office of Investigations, U.S. International Trade Commission, Room 350, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-1376.

SUPPLEMENTARY INFORMATION: On June 9, 1981, the Commission unanimously determined, on the basis of the information developed during the course of investigation No. 731-TA-42 (Preliminary), that there was a reasonable indication that an industry in the United States was threatened with material injury by reason of imports of motorcycle batteries from Taiwan, which were allegedly being sold in the United States at LTFV. As a result of the Commission's affirmative preliminary determination, the Department of Commerce continued its investigation into the question of LTFV sales. Unless the investigation is extended, the final LTFV determination will be made by the Department of Commerce on or before December 28, 1981.

WRITTEN SUBMISSIONS: Any person may submit to the Commission a written statement of information pertinent to the subject of this investigation. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, on or before January 8, 1982.

All written submissions, except for confidential business data, will be available for public inspection.

Any business information for which confidential business treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information."

Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6).

A staff report containing preliminary findings of fact will be available to all interested parties on December 23, 1981, **PUBLIC HEARING:** The Commission will hold a public hearing in connection with this investigation on January 12, 1982, in the Hearing Room of the U.S. International Trade Commission Building, beginning at 10 a.m., e.s.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.) on December 22, 1981. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10 a.m., e.s.t., on December 23, 1981, in Room 117 of the U.S. International Trade Commission Building. Prehearing statements must be filed on or before January 8, 1982.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules of practice and procedure (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing statements and to new information. The Commission will not receive prepared testimony for the public hearing, as would otherwise be provided for by rule 201.12(d). All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing statements in accordance with § 207.22. Posthearing briefs will also be accepted within a time specified at the hearing.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 207.20 of the Commission's rules of practice and procedure (19 CFR 207.20, 44 FR 76472).

Issued: October 22, 1981.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 81-31262 Filed 10-27-81; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-107]

Certain Ultrafiltration Membrane Systems and Components Thereof, Including Ultrafiltration Membranes; Denial of Request for Temporary Relief

AGENCY: International Trade Commission.

ACTION: Denial of request for temporary relief.

SUMMARY: On October 16, 1981, the Commission denied complainants' request for temporary relief under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). This action is a sanction taken pursuant to Rule 210.36(b) of the Commission's rules of practice and procedure (19 CFR 210.36(b)) for complainants' failure to comply with discovery orders.

AUTHORITY: The authority for this action is contained in section 337 of the Tariff Act of 1930 and in § 210.36(b) of the Commission's rules of practice and procedure (19 CFR 210.36(b)).

FOR FURTHER INFORMATION CONTACT: Scott M. Daniels, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0480.

Issued: October 19, 1981.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 81-31261 Filed 10-21-81; 8:45 am]
BILLING CODE 7020-02-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting Addendum

October 23, 1981.

A change has been made to the Agenda for the November 2-4 meeting of the National Advisory Committee on Oceans and Atmosphere (NACOA), published in the Federal Register of October 22, 1981 (page 51824). The agenda has been revised as follows:

Monday, November 2, 1981
Department of Commerce
14th and Constitution Avenue, NW., Room
6802, Washington, D.C.

PLENARY

9:00 a.m.—9:15 a.m. • Announcements. 9:15 a.m.—9:30 a.m. • Swear-In Ceremony for New Members (Tentative); Joseph F. Wright, Deputy Secretary of Commerce. 9:30 a.m.—10:00 a.m. • Guest Speaker: Honorable Ted Stevens, Committee on Commerce, Science, and Transportation, United States Senate.

Additional information concerning this portion of the meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., (Page Building #1, Room 438), Washington, D.C. 20235. The telephone number is 202/653-7818.

Dated: October 23, 1981.

Steven R. Anastasion,
Executive Director.

[FR Doc. 81-31188 Filed 10-27-81; 8:45 am]
BILLING CODE 3510-12-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the National Council on the Arts will be held on Friday, Nov. 13, 1981 from 9:30 a.m.—5:30 p.m., Saturday, Nov. 14, 1981 from 9:00 a.m.—5:30 p.m. and Sunday, Nov. 15, 1981, from 9:00 a.m.—1:00 p.m. at the Four Seasons Hotel, 2800 Pennsylvania Avenue, N.W., Washington, D.C.

A portion of this meeting will be open to the public on Friday, November 13, 1981 from 9:30 a.m.—4:30 p.m. and on Saturday, November 14, 1981 from 9:00 a.m.—2:00 p.m. Topics for discussion will include Program Review/Guidelines for Design Arts, Expansion Arts, Visual Arts, Media Arts and Music and reports from the National Council on the Arts/National Assembly of State Arts Agencies Joint Committee and the Policy Committee.

The remaining sessions of this meeting on Friday, November 13, 1981 from 4:30 p.m.—5:30 p.m., Saturday, November 14, 1981 from 2:00 p.m.—5:30 p.m. and Sunday, November 15, 1981 from 9:00 a.m.—1:00 p.m. are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants, and for discussion and development of

confidential fiscal year 1983 budgetary materials to be submitted to the Office of Management and Budget and the Congress. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 81-31219 Filed 10-27-81; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Procedures and Administration; Meeting

The ACRS Subcommittee on Procedures and Administration will hold a meeting on November 11, 1981 in Room 1010, 1717 H Street NW., Washington, DC. Notice of this meeting was published September 23.

In accordance with the procedures outlined in the *Federal Register* on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss information of a personal nature. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION 6). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, November 11, 1981—11:00 o.m. until the conclusion of business

The Subcommittee will hold discussions regarding ACRS activities including the following topics:

- (a) Scope and nature of ACRS activities including resolution of generic safety matters.
- (b) Format/scope of ACRS reports.
- (c) Interface of ACRS with NRC Commissioners/Staff.
- (d) Arrangements for obtaining the services of ACRS members.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Raymond F. Fraley (telephone 202/634-3265) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) Public Law 92-463 that it may be necessary to close some portions of this meeting to discuss information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The authority for such disclosure is Exemption (6) to the Sunshine Act, 5 U.S.C. 552b(c)(6).

Dated: October 22, 1981.

John C. Hoyle,

Advisory Committee Monogement Officer.

[FR Doc. 81-31221 Filed 10-27-81; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee on Human Factors; Change

The November 2, 1981 meeting of the ACRS Subcommittee on Human Factors may discuss proposals for implementation of the revised NRC Safety Research Program for FY 1982-1984.

The entire meeting will be open to public attendance except for those sessions of this meeting that may be closed as required (Sunshine Act Exemptions (2), (6), and (9)b). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

I have determined, in accordance with Subsection 10(d) Pub. L. 92-463 that it may be necessary to clear sessions of the meeting as noted above to discuss matters which relate solely to the internal personnel rules and practices of the agency (Exemption (2)), to discuss information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy (Exemption (6)), and to discuss preliminary information the

release of which would be likely to significantly frustrate the Committee in the performance of its statutory function (Exemption (9)b). The authorities for such closure are Exemptions (2), (6) and (9)b to the Sunshine Act, 5 U.S.C. 552b(c)(2)(6)(9)b.

Notice of this meeting was published in the *Federal Register* on October 19, 1981 (46 FR 51329) and all other items remain the same as indicated above.

Dated: October 22, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-31220 Filed 10-27-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos., 50-329 OL, 50-330 OL, 50-329 OM, 50-330 OM]

Consumers Power Co. (Midland Plant, Units 1 and 2); Appointment of Alternate Board Member

Pursuant to the authority contained in 10 CFR 2.721(b), Administrative Judge Jerry Harbour is hereby appointed as an alternate member having technical qualifications to the Atomic Safety and Licensing Boards for each of the following proceedings:

Consumers Power Company, Midland Plant, Units 1 and 2, Docket Nos. 50-329 OL and 50-330 OL

Consumers Power Company, Midland Plant, Units 1 and 2, Docket Nos. 50-329 OM and 50-330 OM

Each of the Boards for these proceedings (which have been consolidated) is currently comprised of the following Administrative Judges:

Charles Bechhoefer, Chairman, Dr. Frederick P. Cowan, Ralph S. Decker, Dr. Jerry Harbour, Alternate Member

All correspondence, documents and other materials shall be filed with the Board in accordance with 10 CFR 2.701 (1980). The address of the new alternate Board member is:

Administrative Judge Jerry Harbour, U.S. Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 22nd day of October 1981.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 81-31223 Filed 10-27-81; 8:45 am]

BILLING CODE 7590-01-M

Colorado; Staff Assessment of Proposed Amended Agreement

Note.—This document was originally published in the issue of October 14, 1981. It is reprinted at the request of the Nuclear Regulatory Commission.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of proposed amended agreement with State of Colorado.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission is publishing for public comment a proposed amendment to the existing Section 274B. Agreement between NRC and the State of Colorado which became effective February 1, 1968. The request dated September 29, 1981, from the Governor of the State of Colorado, if approved, would permit the State of Colorado to regulate byproduct material as defined in Section 11e.(2) of the Atomic Energy Act, as amended, (uranium mill tailings) after November 8, 1981 in conformance with the requirements of Section 274o. of the Atomic Energy Act of 1954, as amended.

A staff assessment of the State's proposed radiation control program to implement the amended agreement is set forth below as supplementary information to this notice. A copy of the complete program description submitted by Colorado including a narrative prepared by the State describing the State's proposed program for control over byproduct materials as defined in Section 11e.(2) of the Act, appropriate State legislation, and regulations is available for public inspection in the Commission's public document room at 1717 H Street, NW, Washington, DC.

DATES: Comments must be received on or before November 13, 1981.

ADDRESSES: All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed amended agreement should send them to the U.S. Nuclear Regulatory Commission, Office of State Programs, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John R. McGrath, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492-9889.

SUPPLEMENTARY INFORMATION: Assessment of Proposed Colorado Program to Regulate Byproduct Material as Defined in Section 11e.(2) of the Act. Reference: Criteria 29-36 of "Guidance of States and NRC in Discontinuance of NRC Regulatory Authority Thereof by States Through Agreement," 44 FR 42818.

I. Introduction

The Uranium Mill Tailings Radiation Control Act of 1978 amended the requirements for Section 274 of the Atomic Energy Act, "Cooperation With States" and imposed certain requirements that must be met by Agreement States in order to regulate uranium mill tailings after November 8, 1981. Governor Richard D. Lamm of the State of Colorado has requested NRC to amend its agreement with NRC to permit continued State regulation of uranium mill tailings after this date. His request was supported by a description of the State's program for control of uranium mill tailings. NRC Staff has completed an assessment of the State's proposal as follows:

II. Assessment of Proposed State of Colorado Radiation Control Program for Uranium Mill Tailings

1. Statutes

State statutes or duly promulgated regulations should be enacted, if not already in place, to make clear State authority to carry out the requirements of Pub. L. 95-604, Uranium Mill Tailings Radiation Control Act (UMTRCA).

In the enactment of any supporting legislation, the State should take into account the reservations of authority to the United States in UMTRCA as stated in 10 CFR 150.15a.

It is preferable that State statutes contain the provisions of Section 6 of the Model Act,¹ but the provisions may be accomplished by adoption of either procedures by regulation or technical criteria. In any case, authority for their implementation should be adequately supported by statute, regulation or case law as determined by the State Attorney General.

In the licensing and regulation of ores processed primarily for their source material content and for the disposal of byproduct material, procedures shall be established which provide a written analysis of the impact on the environment of the licensing activity. This analysis shall be available to the public before commencement of hearings and shall include:

¹ The reference is to the model Uranium Mill Radiation Control Act, a copy of which has been placed in the Commission's Public Document Room. Section 6 of the Model Act requires that, among other things, statutory authority must be enacted to make clear State authority to carry out the requirements of the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978, as amended. UMTRCA specifies that when States license an activity involving mill tailings, that has a significant impact on the human environment, they must prepare a written independent analysis of the impact of such license on the environment, including any activities conducted pursuant thereto.

a. An assessment of the radiological and nonradiological public health impacts;

b. An assessment of any impact on any body of water or groundwater;

c. Consideration of alternatives to the licensed activities; and

d. Consideration of long-term impacts of licenses activities.

A detailed evaluation of the pertinent Colorado Statutes, Title 25, Article 11, and Title 24, Article 11, Colorado Revised Statutes 1973, as amended, has been performed by NRC Staff. The State's statutes provide sufficient authority for Colorado agencies to comply with the requirements of UMTRCA. Many of the requirements discussed above and pertaining to performance of environmental assessments are addressed in Colorado regulations rather than legislation. The requirement that an adequate surety will be provided by the licensee to assure the completion of all requirements established by the State for decontamination, decommissioning, and reclamation of sites is contained in Section 3.9.4 of the State regulations. Requirements concerning preparation of environment reports by licensees and the preparation of environmental impact analyses by the State are contained in Sections 3.8.8 and 3.9.10.

2. Regulations

State regulations should be reviewed for regulatory requirements, and where necessary incorporate regulatory language which is equivalent to the extent practicable, or more stringent than regulations and standards adopted and enforced by the Commission, as required by Section 274o. (See 10 CFR 40 and 10 CFR 150.31(b)).

On August 19, 1981, (effective date: October 1, 1981) the State of Colorado Rules and Regulations pertaining to radiation control were amended to conform to the requirements of the Uranium Mill Tailings Radiation Control Act of 1978.

The regulations have been reviewed by the staff and deemed to be equivalent to the extent practicable to the requirements of 10 CFR 40, Appendix A. Satisfactorily addressed in the Colorado regulations are: bonding requirements, siting requirements, criteria for tailings management, dam stability analyses, surety arrangements, requirements for ownership, and criteria for ongoing active maintenance for uranium mill tailings impoundments.

3. Organizational Relationships Within the States

Organizational relationships should be established which will provide for an effective regulatory program for uranium mills and mill tailings.

When personnel in agencies other than the lead agency are included in the professional staff's effort, their availability on a routine and continuing basis must be demonstrated. Arrangements for availability for such resources have been proposed by Colorado through interagency memoranda of understanding (MOU) with the Departments of Natural Resources, Highways, Local Affairs, and the Colorado Historical Society. Contained in the agreements are duties of each agency or division, i.e., the legislative or regulatory requirements for which they are responsible, and the period required for their performance. An organization chart outlining the organizational relationships between the Radiation Control Section and other State agencies is also included. The proposal acknowledges that the MOUs are for the work required by States statutes. Although not stated in the proposal, commitments for assistance by various State agencies assures that consideration for necessary budgeting is implicit in the commitments.

4. Personnel

Personnel needed in the processing of the license applications can be identified or grouped according to the following skills: Technical, Administrative, and Support.

In order to meet the requirements of UMTRCA, current indications are that 2-2.75 total professional person-years' effort is necessary to process and evaluate a new conventional mill license, in-situ license, or major license renewal. A complete review of in-plant safety, production of the environmental assessment, and consultant use are primary considerations in the total professional effort for each licensing case. With respect to clerical support, one secretary is required to process two conventional milling applications, including the pre-licensing and post-licensing phases. Legal support is also an essential element of the mill program, and the effort is set at a minimum of 1/2 staff-year. In addition, consideration must be given to such post-licensing activities as issuance of minor amendments, mill inspections, and environmental monitoring. Professional staff effort is estimated at 0.5-1.0 person-years for each year of post-licensing activities.

Currently, there are three conventional uranium milling operations and one heap leach operation licensed in the State of Colorado. The State is currently reviewing applications for two conventional mills and one in-situ leach operation. The State estimates that a total of 1.5 staff years of effort will be needed to conclude these actions in FY 81-82. A total of 5 staff years of technical and administrative effort is available. This includes 3.05 from the Radiation Control Section, 0.55 administrative, 0.4 from the Solid and Hazardous Waste Control Division, and 1.0 from other State agencies. 0.5 staff year of legal support per case (if uncontested) is also available. We conclude the total professional staff-years effort within the Radiation Control Section (RCS) directly responsible for regulation of uranium mills and mill tailings to be within our guidelines. Individuals in the Radiation Control Section involved in the regulation of mills include the following:

Albert J. Hazle, Director, Radiation and Hazardous Waste Control Division.

Education: Colorado State University, 1951-56, B.S. in Science; Colorado State University, 1958-60, graduate work in physiology.

Radiation Related Work Experience: 1961-65, Jefferson County Health Department; 1965-present, Colorado Department of Health.

Related Activities: Member of several task forces for the Conference of Radiation Control Program Directors.

Warren Jacobi, Supervisory Health Physicist. Education: Wagner College, 1964-68, B.S. in Biology; Colorado State University, 1968-69, graduate work in Radiation Biology.

Radiation Related Work Experience: 1969 Colorado Department of Health; 1969-72 U.S. Army, Lectures in Radiation Protection; 1972-present Colorado Department of Health.

Related Activities: Member of several task forces for the Conference of Radiation Control Program Directors. Member of the Interorganizational Advisory Committee on Radiological Emergency Response Planning and Preparedness.

Robert Terry, Health Physicist.

Education: Colorado College, 1971-72, Syracuse University; 1972-75, B.S. in Biology, State University of New York at Binghamton; 1975-76, Graduate work in biochemistry.

Radiation Related Work Experience: 1976-present, Colorado Department of Health.

Dennis Brown, Health Physicist.

Education: Lawrence Institute of Technology, 1970-71; University of Michigan, 1971-73; Eastern Michigan University, 1974-76, B.S. in Biology.

Radiation Related Work Experience: 1981-present, Colorado Department of Health.

Richard Gamewell, Senior Health Physicist.

Education: Rutgers University, 1942-48, B.S. in Chemistry; University of Colorado, 1948-49, graduate work in Chemistry; University of

Colorado School of Medicine, 1958-62, M.S. in Biophysics.

Radiation Related Work Experience: 1960-1962 Biophysics Department, University of Colorado School of Medicine; 1971-present, Colorado Department of Health.

Charles Mattson, Senior Health Physicist.

Education: Colorado School of Mines, 1961-1963; Colorado State College, 1963-1965, A.B. in Chemistry; Colorado State University, 1965-1967, M.S. in Chemistry; Colorado School of Mines, 1969, graduate work in Chemistry.

Radiation Related Work Experience: 1970-present, Colorado Department of Health.

Kenneth Weaver, Health Physicist.

Education: University of Colorado, 1963-1968, B.A. in Zoology, Chemistry; Washington State University, 1968-1969, graduate work in Zoology; Colorado State University, 1971-1978, M.S. in Radiation, Biology.

Radiation Related Work Experience: 1973-1976, Colorado State University; 1977-1978, Colorado State University; 1978-present, Colorado Department of Health.

During evaluations of license applications the State must have access to specialty resources such as hydrologists, geologists, and geotechnical engineers. Under the terms of the draft Memorandum of Understanding, the Colorado Geological Survey, a division of the Department of Natural Resources, is to provide technical advice and assistance regarding geologic hazards, mineral resource development, and visual esthetic impacts of source material milling operations. The Division of Water Resources of the State Department of Natural Resources reviews plans and specifications for design of dams, including tailings dams at source material milling operations. The Mined Land Reclamation Division and the State Water Conservation Board also review hydrologic aspects of such operations. It is also recommended that radioactive materials regulatory personnel have some training in these areas in addition to specialized training in uranium mill health physics and preparation of environmental assessments. Messrs. Weaver, Gamewell and Mattson have attended the NRC "Uranium Mill Training Course for State Regulatory Personnel." In addition, Mr. Weaver has attended the Colorado State University (CSU) course in Subsurface Contaminant Migration from Mill and Mill Waste Impoundments, Mr. Gamewell has attended the CSU course Groundwater Hydrology, and Mr. Mattson has attended an NRC sponsored course on bioassay at uranium mills.

5. Functions To Be Covered

The State should develop procedures for licensing, inspection, and

preparation of environmental assessments.

Each uranium mill license application will be evaluated against State statutes, regulations, and NRC Regulatory Guides. A list of NRC Regulatory Guides and other reference material sent to applicants and utilized by the State in evaluating licensing actions has been furnished. The State has also developed their own Source Material Mill Licensing Guide. The Guide addresses the preparation of the radioactive materials license application, the environmental report, and financial surety arrangements. The Guide also discusses such requirements as the prohibition on pre-licensing construction. State personnel will perform in-plant safety reviews. The individual in charge of licensing is also responsible for assuring that the in-plant safety review meets State requirements. As discussed earlier other State agencies are involved in the review of the environmental report.

Upon completion of the review and resolution of concerns, a draft preliminary executive licensing review summary is prepared which includes a project description, an environmental assessment and discussion of the issues, a draft license proposal, and draft surety agreements.

Financial surety requirements for specific classes of radioactive material licenses for both reclamation and long term care were included in the 1978 edition of the Colorado regulations. Model surety agreements drafted by the Department of Law are included in the State's proposal. Reclamation sureties include mill site, pipeline corridors and tailings impoundment stabilization, which nominally amounts to a \$10-25 million cost coverage guarantee. Mechanisms of surety provisions include all precedures including real equity but not including self insurance, unless certain very definitive tests are met.

Long-term funds for monitoring and maintenance are based on annual cost and the corpus necessary to generate the annual interest to meet that cost. Normally the corpus has involved several million dollars. Costs include visual inspections, surveys, sampling and analysis, fence, sign and road maintenance, plant and burrowing animal control, maintenance of drain and diversion systems and contingencies for recontouring.

Along with the preliminary executive licensing review summary, notice is also given of a hearing and a public comment period.

If several agencies will need to issue

permits, hearings may be held jointly.

The conduct of all procedures is in accord with the Colorado Administrative Procedures Act (APA or 24-4-101 *et seq.*, C.R.S. 1973, as amended) or as otherwise indicated by specific program statute.

Upon completion of the hearing and the comment period on the radioactive mill license application, a final executive licensing review summary is prepared and published. This includes a review of the comments and their disposition, findings of fact and conclusions of law, and the issuance of a license, if that is the final action called for.

Colorado's statute and regulations are written in a positive sense to the effect that it is the State's responsibility to issue licenses if public health, safety and the environment are adequately protected.

Inspections of all byproduct material licensees are conducted by Colorado in accordance with general procedures outlined in the State Radiation Control Section's Compliance manual. The procedures which are common to all routine inspections have been supplemented by instructions specific to inspections at mills. The general procedures have been judged acceptable during the periodic NRC review meetings with Colorado. The functions of State inspectors are to prepare for inspections, conduct on-site inspections, prepare a written report of the inspection, prepare enforcement letters, and review corrective actions. Compliance inspections are essential to ensure that conditions of licensure are being honored. Regular mill inspections are conducted annually. Occasional inspections targeted to specific aspects of an operation occur more frequently. Inspections are unannounced.

When major violations are found, follow-up inspections are made as required to determine subsequent compliance. Compliance determinations are also made in conjunction with review of reports required to be submitted to the Department at regular intervals. Enforcement action is in accord with the Colorado Administrative Procedure Act, 25-4-101 *et seq.*, C.R.S. 1973, as amended. The Department's escalated enforcement policy is included in the proposal. This policy addresses the goals of the enforcement program, violation severity categories, the issuance of Notices of Violation, Orders and other enforcement options available to the State.

Alongside traditional occupational health physics concerns, Colorado has

directed multi-agency attention to solving environmental health problems e.g., those associated with tailings-built impoundments at existing facilities, remediation of off-site surface soil and ground water contamination, and reduction of dusting from ore stockpile and handling areas.

States should require the submittal of semi-annual reports specifying the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the six month period. This data should be reported in a manner that will permit the regulatory agency to confirm the potential annual radiation doses to the public. The State of Colorado places a standard condition on all uranium mill licenses requiring the submittal of effluent and environmental monitoring data. A sample format for reporting this data is provided.

6. Instrumentation

The State should have available both field and laboratory instrumentation sufficient to ensure the licensee's control of materials and to validate the licensee's measurements.

a. Sampling of air particulates—The State has area air samplers to detect natural uranium, Ra-226, Th-230, and Pb-210.

b. Sampling of radioactive gases—Scintillation detectors with compatible scintillation cells are utilized for detection of Radon-222.

c. Site surveillance—The State has a number of portable survey meters designed to be used with interchangeable detector probes, i.e., proportional, Geiger-Muller, and scintillation probes for detection of alpha, beta, and gamma radiations, respectively. Three micro-R meters for counting of low-level gamma dose rates are also available. There are general purpose survey meters providing versatility for use in field and laboratory. Alpha scintillation probes are currently being used with these survey meters.

d. Equipment calibration—Procedures have been developed and staff has been trained in calibration of radiation detection equipment. Survey instrumentation is calibrated in-house.

7. Conclusion

Based on the foregoing, the NRC staff concludes that the State of Colorado has met the NRC criteria for an amended agreement.

III. Amendment to Agreement Between the U.S. Nuclear Regulatory Commission and the State of Colorado for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, the United States Atomic Energy Commission¹ (hereinafter referred to as the Commission) entered into an Agreement (hereinafter referred to as the Agreement of January 16, 1968) with the State of Colorado under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), which Agreement became effective on February 1, 1968 and provided for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to byproduct materials as defined in Section 11e.(1) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, it is necessary to enter into this amendment in order to implement new requirements of Section 274 of the Act which become fully effective on November 8, 1981; and

Whereas, the Commission found on _____, 1981 that the program of the State for the regulation of materials covered by this amendment is in accordance with the requirements of Section 274o. of the Act and in all other respects compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, this amendment is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting on behalf of the State, as follows:

Section 1. Article I of the Agreement of February 1, 1968 is amended by adding "as defined in Section 11e.(1) of the Act:" after the words "byproduct materials" in paragraph H., by redesignating paragraphs B. and C. as paragraphs C. and D., and by inserting the following new paragraph immediately after paragraph A.:

"B. Byproduct materials as defined in Section 11e.(2) of the Act:"

Section 2. Article II of the Agreement of February 1, 1968 is amended by inserting "a." before the words "This

Agreement," by redesignating paragraphs A. through D. as subparagraphs 1. through 4., and by adding the following at the end thereof:

"B. Notwithstanding this Agreement, the commission retains the following authorities pertaining to byproduct materials as defined in Section 11e.(2) of the Act:

"1. Prior to the termination of a State license for such byproduct material, or for any activity that results in the production of such material. The Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.

"2. The Commission reserves the authority to establish minimum standards governing reclamation, long term surveillance or maintenance, and ownership of such byproduct material. Such reserved authority includes:

"a. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamations standards prescribed by the Commission; and with ownership requirements for such materials and its disposal site;

"b. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State of the option of the State (provided such option is exercised prior to termination of the license);

"c. The authority to permit use of surface or subsurface estates, or both, of the land transferred to the United States or the State pursuant to subparagraph B.2.b. of this Article, but any such use of land transferred to the State may be made only with the concurrence of the State;

"d. The authority to require the Secretary of the Department of Energy, other Federal agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring maintenance, and emergency measures as are necessary to protect the public health and safety, and other actions as the Commission deems necessary; and

"e. The authority to enter into arrangements as may be appropriate to assure Federal long term surveillance or maintenance of such byproduct material and its disposal site on land held in trust

by the United States for any Indian tribe or land owned by an Indian tribe and subject to a restriction against alienation imposed by the United States."

Section 3. Article III of the Agreement of February 1, 1968 is amended by inserting "otherwise licensable by the State under Article I of this Agreement" after the words "special nuclear material."

Section 4. Article VII of the Agreement of February 1, 1968 is amended by inserting "all or part of" after the words "terminate or suspend," by inserting "(1)" after the words "finds that," and by adding at the end before the period the following:

" , or (2) the State has not compiled with one or more of the requirements of Section 274 of the Act. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with the provisions of Section 274 of the Act."

Section 5. Article VIII of the Agreement of February 1, 1968 is amended by redesignating it Article IX and by inserting a new Article VIII as follows:

"In the licensing and regulation of byproduct material as defined in Section 11e.(2) of the Act, or of any activity which results in production of such material, the State shall comply with the provisions of Section 274o. of the Act. If, in such licensing and regulation, the State requires financial surety arrangements for the reclamation of long term surveillance or maintenance of such material,

"A. The total amount of funds the State collects for such purposes shall be transferred to the United States if custody of such material and its disposal site is transferred to the United States upon termination of the State license for such material or any activity which results in the production of such material. Such funds include, but are not limited to, sums collected for long term surveillance or maintenance. Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and

"B. Such State surety or other financial requirements must be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long term management of such byproduct material and its disposal site."

This amendment shall become effective on November 8, 1981 and shall

¹ Under the provisions of the Energy Reorganization Act of 1974, the regulatory functions formerly carried out by the Atomic Energy Commission are now carried out by the Nuclear Regulatory Commission as of January 19, 1975.

remain in effect unless and until such time as it is terminated pursuant to Article VII.

Done at Denver, State of Colorado, in triplicate, this day of 1981.

For the State of Colorado.

Richard D. Lamm,

Governor of Colorado.

Done at Washington, DC, in triplicate, this day of 1981

For the U.S. Nuclear Regulatory Commission.

Nunzio J. Palladino,
Chairman.

Dated at Bethesda, Maryland, this 7th day of October, 1981.

For the Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 81-29747 Filed 10-13-81; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENTIAL ADVISORY COMMITTEE ON FEDERALISM

Regulatory and Judicial Reform Subcommittee; Open Meeting

The Regulatory and Judicial Reform Subcommittee of the Presidential Advisory Committee on Federalism will meet on Thursday, November 12, 1981, from 9:00 a.m. to 12:00 p.m. in Room 2010 of the New Executive Office Building, at 17th Street and Pennsylvania Avenue N.W., Washington, D.C.

The Subcommittee is part of the Advisory Committee on Federalism which was established by Executive Order 12303 on April 8, 1981. The Chairman of the Full Committee is U.S. Senator Paul Laxalt. The Subcommittee is composed of members from the full Committee which include private citizens, public officials from state and local governments, and members of the Legislative and Executive branches of the federal government. The members serve at the pleasure of the President.

The Committee shall advise the President with respect to the objectives and conduct of the overall federalism policy of the United States.

The meeting will be open to public observation. Written comments or statements may be submitted at any time before or after the meeting and should be related to the substantive matter identified above. Approximately 75 seats will be available for the public on a first come, first served basis.

For further information, contact Rick Neal at (202) 456-7943.

Richard S. Williamson,
Assistant to the President.

[FR Doc. 81-31201 Filed 10-27-81; 8:45 am]

BILLING CODE 3195-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11999; 812-4946]

Bateman Eichler, Hill Richards Inc.; Filing of Application Act for an Order of Exemption

October 22, 1981.

Notice is hereby given that Bateman Eichler, Hill Richards Incorporated ("Applicant"), 700 South Flower Street, Los Angeles, California 90017, registered as a broker-dealer under the Securities Exchange Act of 1934 ("1934 Act"), in connection with a proposed public offering of units, each unit consisting of one share of common stock and a warrant to purchase one additional share of common stock (the "Units"), of Equity Strategies Fund, Inc. (the "Fund"), a registered, closed-end, diversified, management investment company, filed an Application on August 14, 1981, pursuant to Section 6(c) of the Investment Company Act of 1940 (the "Act") for an order of the Commission exempting certain transactions of Applicant and its co-underwriters which are incidental to the distribution of the Fund's Units from Section 30(f) of the Act to the extent that such Section incorporates the provisions of Section 16 of the 1934 Act. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is the prospective representative (the "Representative") of a group of underwriters (the "Underwriters") being formed in connection with the proposed public offering by the Fund of 2,500,000 Units plus 250,000 Units to cover the Underwriter's over-allotment option. Units are to be purchased by the Underwriters pursuant to an Underwriting Agreement (the "Underwriting Agreement") to be entered into between the Underwriters, represented by the Representative, and the Fund. It is also contemplated that one or more dealers will offer to sell certain of the Units, and in connection with such offer and sale each such dealer will execute a Selected Dealers' Agreement. It is intended that the several Underwriters will make a public

offering of all the Units which such Underwriters are to purchase under the Underwriting Agreement at the price therein specified, as soon on or after the effective date of the Fund's Registration Statement on Form N-2 (the "Registration Statement") as the Representative deems advisable. Such Units are initially to be offered to the public in accordance with the formulae for the determination of the per Unit public offering price and underwriting commissions, which vary based upon the number of Units purchased in a single transaction, to be specified in the prospectus incorporated in the Registration Statement (the "Prospectus") at the time the Registration Statement becomes effective under the Securities Act of 1933. Although 2,750,000 Units have been included for registration in the Registration Statement, the actual number of Units which may be the subject of the proposed public offering may be increased or decreased by the Representative and the Fund shortly before the effective date of the Registration Statement and the proposed public offering, depending upon the exercise of an over-allotment election granted to the Underwriters, market conditions and other factors.

Applicant states that, since it is not now possible for Applicant to determine the aggregate number of Underwriters there will be for the purposed offering of Fund Units or the original purchase obligation of any one or more of the Underwriters or the Representative, it is possible that the original purchase obligation of any one or more of the Underwriters, including the Representative, will exceed 10% of the aggregate number of Units to be outstanding after purchase of Fund Units by the several Underwriters pursuant to the Underwriting Agreement, upon the completion of the initial public offering, or at some interim time. Since Section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10% of any class of outstanding securities of the Fund to the same duties and liabilities as those imposed by Section 16 of the 1934 Act with respect to transactions in the securities of the Fund, such Underwriter or Underwriters may become subject to the filing requirements of Section 16(a) of the 1934 Act and, upon resale of the Units purchased by them to their customers, subject to the obligations imposed by Section 16(b) of the 1934 Act.

Rule 16b-2 under the 1934 Act exempts certain transactions in connection with a distribution of

securities from the operation of Section 16(b) thereof. Applicant states that the purpose of the purchase of the Units by the Underwriters will be for resale in connection with the initial distribution of the Units. Applicant states that such purchases and sales, therefore, will be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b-2.

Applicant states that, although it is anticipated that the requirements of Rules 16b-2(a) (1) and (2) will be met here, it is possible that one or more of the Underwriters, through their participation in the distribution of the Units, may not be exempted from Section 16(b) of the 1934 Act by the operation of Rule 16b-2. Applicant states that they may fail to meet the requirements stated in Rule 16b-2(a)(3) in that the extent of participation of persons not within the purview of Section 16(b) of the 1934 Act may not be at least equal to the aggregate participation of persons receiving the exemption under rule 16b-2, since it is possible that one or more of the Underwriters, each of whom is obligated through the Underwriting Agreement to purchase more than 10% of the aggregate number of Units to be outstanding after the closing, may collectively purchase more than 50% of the Units offered.

Applicant, moreover, states that the requirements of Rule 16b-2(a)(3) may not be met because it is possible that one or more Underwriters, even though each is obligated by the Underwriting Agreement to purchase less than 10% of the aggregate number of Units to be outstanding upon completion of the initial public offering of the Units, may, as a consequence of defaults by other Underwriters who do not purchase their respective underwriting commitments, each become obligated to purchase at the closing of the public offering more than 10% of the aggregate number of Units to be outstanding after the closing. Applicant states that it will be impossible to know in advance of one day prior to the effective date of the Registration Statement whether the extent of the participation of Underwriters in the offering of Units not within the purview of Section 16(b) of the 1934 Act is at least equal to the aggregate participation of persons exempted by Rule 16b-2.

Applicant also states that, in addition to the purchases of Units from the Fund and sales of Units to customers, there may be the usual transactions of purchase or sale incident to a distribution such as stabilizing purchases, purchases to cover over-

allotments or other short positions created in connection with such distribution, and sales of Units purchased in stabilization.

Applicant states that Section 16 of the 1934 Act was designed essentially to discourage the use by insiders of "inside information" unfairly in short-term trading of their company's shares. Applicant argues that there is no inside information in existence concerning the Fund since the Fund, prior to the initial distribution of the Units, will have no assets, other than cash, or business of any sort, and all material facts with respect to the Fund will be set forth in the Prospectus pursuant to which the Units will be offered and sold. No director or officer of the Applicant is a director or officer of either the Fund or Security Pacific Investment Managers, Inc., the Fund's investment adviser (the "Adviser"), or any affiliate of the Adviser, and Applicant states that it does not anticipate that any partner, director or officer of any other Underwriter will be a director or officer of the Fund, the Adviser or any such affiliate.

Applicant submits that granting its requested exemption from the provisions of Section 30(f) of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant further contends that the transactions sought to be exempted cannot lend themselves to the practices which Section 16(b) of the 1934 Act and Section 30(f) of the Act were enacted to prevent.

Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule or regulation promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 16, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed Secretary,

Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-31175 Filed 10-27-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12000; 812-4834]

Fidelity Fund, Inc.; Filing of Application for an Order and Exempting Applicants and Exempting Certain Transactions

October 22, 1981.

In the matter of Fidelity Fund, Inc., Fidelity Puritan Fund, Inc., Fidelity Trend Fund, Inc., Fidelity Equity-Income Fund, Inc., Fidelity Contrafund, Inc., Fidelity Congress Street Fund, Inc., Fidelity Magellan Fund, Inc., Fidelity Destiny Fund, Inc., Fidelity Corporate Bond Fund, Inc., Fidelity Daily Income Trust, Fidelity Thrift Trust, Fidelity Limited Term Municipals, Fidelity Exchange Fund, Fidelity Municipal Bond Fund, Inc., Fidelity High Income Fund, Fidelity High Yield Municipals, Fidelity Asset Investment Trust, Fidelity Money Market Trust, Fidelity Government Securities Fund, Ltd., Fidelity Cash Reserves, Fidelity Tax-Exempt Money Market Trust, Fidelity Triad Fund, Inc., Fidelity Qualified Dividend Fund, Fidelity Select Portfolios and Fidelity Ready Cash Fund, 82 Devonshire Street, Boston, Massachusetts 02109.

Notice is hereby given that Fidelity Fund, Inc., Fidelity Puritan Fund, Inc., Fidelity Trend Fund, Inc., Fidelity Equity-Income Fund, Inc., Fidelity Contrafund, Inc., Fidelity Congress Street Fund, Inc., Fidelity Magellan Fund, Inc., Fidelity Destiny Fund, Inc., Fidelity Corporate Bond Fund, Inc.,

Fidelity Daily Income Trust, Fidelity Thrift Trust, Fidelity Limited Term Municipals, Fidelity Exchange Fund, Fidelity Municipal Bond Fund, Inc., Fidelity High Income Fund, Fidelity High Yield Municipals, Fidelity Asset Investment Trust, Fidelity Money Market Trust, Fidelity Government Securities Fund, Ltd., Fidelity Cash Reserves, Fidelity Tax-Exempt Money Market Trust, Fidelity Triad Fund, Inc., Fidelity Qualified Dividend Fund, Fidelity Select Portfolios and Fidelity Ready Cash Fund (collectively "Applicants"), each of which is registered under the Investment Company Act of 1940 (the "Act") as an open-end, management investment company, filed an application on March 6, 1981, and an amendment thereto on August 25, 1981, pursuant to Section 6(c) of the Act for an order of the Commission declaring that Mr. Walter E. Hanson, a proposed director, trustee, or general partner of Applicants and other funds that may be established in the future as part of the Fidelity Group of Mutual Funds shall not be deemed to be an "interested person", within the meaning of Section 2(a)(19) of the Act, of Applicants, each of which has entered into an Advisory and Service Contract with their investment adviser, Fidelity Management and Research Company ("Fidelity"), solely because of his position as a director of INA Corporation, and pursuant to Section 10(f) of the Act exempting Applicants from the provisions of Section 10(f) so as to permit Applicants to purchase securities in public offerings in which Paine Weber, Incorporated ("Paine Webber") or a Paine Webber subsidiary, which may be deemed to be affiliated persons of Mr. Hanson, participates as a principal underwriter. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicants state that Mr. Hanson is in the process of being chosen as a non-interested director, trustee, or general partner of Applicants. However, because of the facts set forth below, Applicants state that they deem it appropriate to seek an order under the Act to determine Mr. Hanson's status as a non-interested director, trustee, or general partner. Applicants state that Mr. Hanson is a certified public accountant in the State of New York and in a number of other states. Applicants also state that Mr. Hanson currently serves as a member of the Boards of Directors of A.M. International, Inc., Chesebrough-Ponds Inc., Northeast

Energy Corporation, and INA Corporation. Applicants state that they desire that Mr. Hanson be a member of their Boards of Directors, Trustees, or General Partners because he is a person of recognized integrity, judgment, independence and competence in the business world.

Applicants state that INA Corporation is a holding and management company and as such either directly or indirectly owns all of the outstanding voting securities of INA Security Corporation ("INA Security"), and Horace Mann Investors, Inc. ("Horace Mann"), which are each registered brokers or dealers (collectively the "Brokers") under the Securities Exchange Act of 1934 ("1934 Act"), and Standard Life Insurance Company of Indiana ("Standard Life"). Applicants state that INA Security acts as the principal distributor of the variable annuity contracts issued by Life Insurance Company of North America ("LINA"), a wholly-owned subsidiary of INA Financial Corporation ("INA Financial"), which in turn is a wholly-owned subsidiary of INA Corporation. In addition, Applicants state that INA Security acts as the principal distributor of shares of the INA High Yield Fund, a mutual fund managed by INA Capital Management Corporation ("INA Capital Management"), which is also a wholly-owned subsidiary of INA Corporation.

Applicants state that INA Security has also entered into dealer contracts with various investment companies such as the Dreyfus Group and Oppenheimer Funds. In this regard Applicants state that INA Security had such an arrangement with various Fidelity Group Funds including Fidelity Corporate Bond Fund, Fidelity Equity Income Fund, Fidelity Fund and Fidelity Trend Fund until June 19, 1979, when these funds became no-load funds. There have been no sales effected on behalf of the Fidelity Group Funds through INA Security since June, 1979, although the dealer agreements are still in effect. Applicants state that selling activity will not be renewed pursuant to these agreements.

Applicants state that Horace Mann is the sole distributor of the variable annuity contracts issued by Horace Mann Life Insurance Company, which is a wholly-owned subsidiary of LINA. Horace Mann is also the sole distributor of shares issued by the Horace Mann Fund, Inc., which is a mutual fund managed by INA Capital Management. Horace Mann also provides limited management services to this fund. Applicants state that they will not effect any brokerage by or through INA Security, or Horace Mann.

Applicants further state that Standard Life has a wholly-owned subsidiary named All Funds Management Corporation ("All Funds"), which is a registered broker/dealer under the 1934 Act. All Funds is engaged only in acting as an agent for split dollar Keough Plans. As an agent, its sole functions are to receive payments for each plan account, to pay a portion of the receipts over to Standard Life with respect to insurance portions of the plans and to apply the balance to the purchase of shares of a non-affiliated mutual fund. Applicants state that, therefore, although All Funds is registered as a broker/dealer under the 1934 Act, it is not engaged in any broker/dealer activities.

Applicants state that INA Corporation, through wholly-owned subsidiaries, owns 20.3% of the common stock of Paine Webber (based on the number of shares outstanding as of June 1, 1981). Together, the common stock and the shares of voting 7½% Series D Convertible Preferred Stock owned by INA Corporation, give it a 21.6% interest in the voting stock of Paine Webber, and make it the largest single stockholder. Applicants state that Paine Webber has subsidiaries which are both investment bankers and registered broker/dealers, including Paine, Webber, Jackson & Curtis Incorporated and Blyth Eastman Paine Webber Incorporated. Applicants state that INA Corporation is itself neither a broker nor dealer registered under the 1934 Act.

Applicants state that INA Corporation also holds, through its subsidiary, INA International Holdings, Ltd., a 5% interest in the voting stock of Campagnie Financiere de Suez ("Suez") which, in turn, owns 5.87% of the common stock of Paine Webber. Applicants state that INA Corporation has only one director on the Suez board, and there are no other arrangements between INA Corporation and Suez which vest additional control of the management or policies of Suez in INA Corporation. Applicants state that in the Schedule 13D filed with the Commission, INA Corporation disclaimed, and continues to disclaim, beneficial ownership of the stock of Paine Webber held by Suez and/or its subsidiaries, and furthermore has stated that its direct ownership of 21.6% of voting stock of Paine Webber is for investment purposes only and not for the purpose of control.

Applicants state that under its Stock Retention and Registration Agreement dated December 21, 1979, with Paine Webber and Suez, INA Corporation is prohibited from becoming the owner,

either directly or indirectly, by conversion of preferred stock or otherwise, of more than 25% of the voting stock of Paine Webber, as long as it holds 5% or more of the Common Stock of Paine Webber.

Applicants state that INA Corporation has only one director on Paine Webber's Board of 21, and there is no agreement which would vest in the INA director greater power than his single vote confers. Applicants state that furthermore the non-voting 7½% Series C Convertible Preferred Stock issued by Paine Webber and held by INA Corporation through its subsidiaries does not confer on INA Corporation any further influence over Paine Webber. Applicants state that contractual relations between the two companies and their respective subsidiaries reflect only arm's-length transactions and business relations and do not confer on INA Corporation any additional control of the policies or management of Paine Webber.

Applicants state that of all commission income generated by Paine Webber for the fiscal year ended September 30, 1980, only .078% was derived from business from Applicants. Even if non-Applicant business is considered as well, Fidelity was the source of only .15% of Paine Webber's commission income for the same period. Applicants state that this volume of business is *de minimis* with respect to Paine Webber.

Applicants state that INA Corporation is an "affiliated person" and Mr. Hanson is an "affiliated person" of "an affiliated person" within the meaning of Section 2(a)(3) of the Act of the Brokers. INA Corporation is an "affiliated person" of Paine Webber and hence an "affiliated person" of an "affiliated person" of the registered broker/dealers and investment banker subsidiaries of Paine Webber. Thus, Mr. Hanson may be considered an "affiliated person" of an "affiliated person" of an "affiliated person" of these subsidiaries within the meaning of Section 2(a)(3) of the Act. The same is true of Mr. Hanson's relationship to Applicants.

Section 2(a)(19)(A)(iii) of the Act defines an "interested person," when used with respect to an investment company to include, " * * * any interested person of any investment adviser or principal underwriter for such company." Section 2(a)(29) of the Act defines "principal underwriter" as "any underwriter who as principal purchases from such (investment) company, or pursuant to contract has the right (whether absolute or conditional) from time to time to purchase from such company, any such security for

distribution, or who as agent for such company sells or has the right to sell any such security to a dealer or to the public or both, but does not include a dealer who purchases from such company through a principal underwriter acting as agent for such company." An "interested person" of an investment adviser or principal underwriter is defined in Sections 2(a)(19)(B) (i) and (iii) of the Act to include: " * * * any affiliated person of such investment adviser or principal underwriter (or) * * * any person who knowingly has any direct or indirect beneficial interest in, or who is designated as trustee, executor, or guardian of any legal interest in, any security issued either by an investment adviser or principal underwriter or by a controlling person of such investment adviser or principal underwriter * * *." Further, Sections 2(a)(19)(A)(v) and 2(a)(19)(B)(v) of the Act define the term "interested person," when used with respect to an investment company, its investment adviser, and its principal underwriter to include "any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such broker or dealer."

Applicants allege that Mr. Hanson will not be an "interested person" of Applicants of which he is a director, Fidelity or the principal underwriter for Applicants because he himself does not directly or indirectly own, control or hold with power to vote 5 per centum or more of the outstanding voting securities of Applicants, Fidelity, the principal underwriter of Applicants, or any registered broker/dealers nor does Mr. Hanson have any direct or indirect beneficial interest in the Funds, Fidelity or the principal underwriter of Applicant. Moreover, Applicants state that Mr. Hanson is neither a broker nor a dealer registered under the 1934 Act nor an investment adviser of Applicants or Fidelity nor a principal underwriter of Applicants. Further, Applicants argue that Mr. Hanson will not be a director of: (i) A broker/dealer registered under the 1934 Act; (ii) an investment adviser of Applicants; or (iii) a principal underwriter. Applicants contend that Mr. Hanson is neither controlled by or under common control with the Brokers or the registered broker/dealer subsidiaries of Paine Webber, All Funds or any investment adviser of Applicants; or (iii) a principal underwriter of Applicants; nor is Mr. Hanson controlling the Brokers, the registered broker/dealer subsidiaries of Paine Webber, All Funds or any investment adviser or principal underwriter of Applicants. Applicants further state that INA Corporation, on whose board of

directors Mr. Hanson serves, is an "affiliated person" of an investment adviser (other than Fidelity) as defined in Section 2(a)(29) of the Act, through its ownership, directly or indirectly, of 100% of the outstanding voting securities of INA Capital Management.

Applicants state that arguably intermediate entities should be disregarded for purposes of determining whether a person is an "affiliated person" of an "affiliated person." Although Applicants do not necessarily agree with such an interpretation, Applicants assert that such an argument is not applicable to Mr. Hanson in any event because INA Corporation, the entity of which he is an "affiliated person" does not control Paine Webber or its broker/dealer subsidiaries. Applicants state that, as described above, INA Corporation does not own and is prohibited from owning more than 25% of the voting stock of Paine Webber and therefore must be presumed not to control Paine Webber.

Applicants argue that the fact that Mr. Hanson is a director of INA Corporation should not result in his being an "interested person" of Applicants of which he is a director, Fidelity or the principal underwriter for Applicants. Applicants state that in his capacity as a director of INA Corporation, he would not be a director of a broker/dealer registered under the 1934 Act, investment adviser or principal underwriter; he would merely be a director of an "affiliated person" of an "affiliated person" of two broker/dealers registered under the 1934 Act (INA Security and Horace Mann), and an "affiliated person" of an "affiliated person" of the investment bankers and registered broker/dealer subsidiaries of Paine Webber and of All Funds. Applicants state that Mr. Hanson's activities respecting INA Corporation will be solely those of a director of INA Corporation.

Section 10(f) of the Act prohibits a registered investment company "from knowingly purchas(ing) * * * during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is a * * * person of which any * * * director (of the registered investment company) * * * is an affiliated person." Section 10(f) of the Act further provides that the Commission by rules or regulations upon its own motion, or by order upon application may conditionally or unconditionally, exempt any transaction or classes of transactions from the restrictions contained therein to the extent such exemption is consistent with the protection of investors. Applicants

contend that for the reasons stated above Mr. Hanson should not be considered an affiliated person of the Brokers and/or the registered broker/dealer subsidiaries of Paine Webber for purposes of Section 10(f) and there should be an affirmative finding to that effect in order to permit Applicants to continue to purchase securities of which each Broker, Paine Webber and its registered broker/dealer subsidiaries is a principal underwriter.

Applicants state that they agree that, as a condition to granting their requested Commission order, Mr. Hanson will not vote on any matters relating to the allocation of any portfolio brokerage by Applicants or the selection of dealers with which Applicants effect portfolio transactions as principal (including, but not limited to, transactions to which Sections 10(f) or 17(a) of the Act or Rules 10f-3 or 17e-1 are applicable), or to any other matter involving any relationship between Applicants and the Brokers or the broker/dealer subsidiaries of Paine Webber; provided, however, that for the purpose of determining the number of votes of interested as well as non-interested directors required to take action on any such matter, Mr. Hanson will be counted as a director in determining the total number of directors and will be counted as a non-interested director in determining the total number of non-interested directors.

The Commission is authorized by Section 6(c) of the Act to exempt, *inter alia*, "any person, security, or transaction or "any class or classes of persons, securities, or transactions" from any provision of the Act or rule thereunder, "if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act." For the reasons stated above, Applicants submit that granting of its requested Commission order is appropriate and in the public interest. Furthermore, Applicants submit that the facts, issues and arguments on which this request for a Commission order is based will be substantially the same for Mr. Hanson's participation as a director, trustee or general partner, as the case may be, of funds to be established in the future as part of the Fidelity Group of Mutual Funds and that it is desirable and appropriate to permit such future

activities without the necessity of applying for an amended order.

Notice is further given that any interested person may, not later than November 16, 1981, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-31176 Filed 10-27-81; 8:45 am]
BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

October 22, 1981.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Felmont Oil Corporation, Common Stock, \$1
Par Value (File No. 7-6062)
Supron Energy Corporation, Common Stock,
\$1 Par Value (File No. 7-6063)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 13, 1981 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-31174 Filed 10-27-81; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular; Public
Debt Series—No. 32-81]

Series W-1983 Notes; Interest Rate

October 22, 1981.

The Secretary announced on October 21, 1981, that the interest rate on the notes designated Series W-1983, described in Department Circular—Public Debt Series—No. 32-81 dated October 15, 1981, will be 15½ percent. Interest on the notes will be payable at the rate of 15½ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-31142 Filed 10-27-81; 8:45 am]
BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register

Vol. 46, No. 208

Wednesday, October 28, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Special Open Meeting on the subjects listed below on Thursday, October 29, 1981, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

General—1—*Title:* Staff Report on FCC Policies on Cable Crossownership; examination of Sections 63.54 and 76.501 of the rules and related matters. *Summary:* The FCC will consider whether to adopt a Notice of Inquiry soliciting comment on the staff's report on FCC Policies on Cable Crossownership.

General—2—*Title:* Staff Report on FCC Policies on Cable Crossownership; examination of Section 76.501 of the rules and related matters. *Summary:* The FCC will consider whether to adopt a Notice of Proposed Rulemaking soliciting comment on the staff's analysis of Section 76.501 of the rules and proposing to eliminate that section.

Common Carrier—1—*Title:* Elimination of the Telephone Company—Cable Television Cross-Ownership Rules, Sections 63.54–63.56, for Rural Areas. *Summary:* The Commission will consider a Report and Order which arises out of the *Notice of Proposed Rulemaking* in CC Docket No. 80-767, which sought a definition of rural areas in order that telephone companies might provide cable television service in such areas without the necessity of obtaining a waiver.

Cable Television—1—*Title:* Report and Order in Docket 18891. *Summary:* amendment of Part 76, subpart J, of the Commission's rules regarding diversification of control of community antenna television stations.

Cable Television—2—*Title:* Report and Order in Docket 20423. *Summary:* Amendment of Part 76, subpart J, of the Commission's rules regarding postponement of the divestiture requirement of section 76.501 relative to prohibited cross-ownership in existence on or before July 1, 1970.

Common Carrier—2—*Title:* Teleprompter Corporation and Acton CATV, Inc. v. Florida Power Corporation, File Nos. PA-81-0008 and PA-81-0023. *Summary:* The Commission will act on Florida Power's request for stay of a *Memorandum Opinion and Order*, Mimeo No. 001980 (released July 16, 1981). In that order, the Commission granted the complaints of Teleprompter and Acton, ordered a reduction in the annual rates for pole attachments, and directed refunds of excess payments. Florida Power asks the Commission to stay the effectiveness of the order pending Commission action on its application for review of the order.

Common Carrier—3—*Title:* Prescription of distribution formula for outbound international telex traffic. *Summary:* The Commission considers a formula proposed by the Common Carrier Bureau after consideration of comments from affected international record carriers (IRCs) and Western Union.

Common Carrier—4—*Title:* Reconsideration of TRT Tariff F.C.C. No. 72, Express International Telex Service (EITS), in light of a subsequent court decision. *Summary:* The EITS offering was originally accepted by the Common Carrier Bureau and permitted to take effect. The Commission reviews that order in light of a subsequent Second Circuit decision holding another international service offering unlawful.

General—3—*Title:* Notice of Proposed Rulemaking on the Use of Random Selection or Lotteries. *Summary:* The Commission will consider whether to adopt proposed regulations for a system of random selection or lotteries to be used to choose among mutually exclusive applications for an initial radio license.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 22, 1981.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S-1629-81 Filed 10-26-81; 2:10 pm]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION

The following item has been deleted at the request of the Office of Chairman Fowler from the list of agenda items scheduled for consideration at the October 22, 1981, Open Meeting and previously listed in the Commission's Notice of October 15, 1981.

Agenda, Item No., and Subject

General—3—*Title:* Notice of Proposed Rulemaking on the Use of Random Selection or Lotteries. *Summary:* The Commission will consider whether to adopt proposed regulations for a system of random selection or lotteries to be used to choose among mutually exclusive applications for an initial radio license.

The following item has been deleted at the request of the Office of Commissioner Dawson from the list of agenda items scheduled for consideration at the October 22, 1981, Open Meeting and previously listed in the Commission's Notice of October 15, 1981.

Agenda, Item No., and Subject

Television—2—*Title:* Application (BPTTV-6096) of Washoe County School District for authority to construct a new television translator station to serve Reno, Nevada and petition to deny filed by Teleprompter Corporation. *Summary:* The Commission will consider the merits of the petition to deny and will determine whether a grant of applicant's proposal to provide Reno with its first noncommercial educational television service by rebroadcasting the signal of Station KVIE-TV Sacramento, California, is in the public interest.

Television—3—*Title:* Application of Capital Communications, Inc. for authority to construct new television translator at Oranburg (BPTTV-800311C) and at Newberry (BPTTV-8003121B), South Carolina and petition to deny. *Summary:* The Commission will consider the merits of the petitions to deny and determine whether grant of applicant's proposals will serve the public interest.

Issued: October 21, 1981.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S-1630-81 Filed 10-26-81; 2:11 pm]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

The following item has been deleted at the request of the Broadcast Bureau

from the list of agenda items scheduled for consideration at the October 22, 1981, Open Meeting and previously listed in the Commission's Notice of October 15, 1981.

Agenda, Item No., and Subject

Aural—1—Title: Application for license of Liberty Baptist College, Inc. (File No. BPED-810325AC), permittee of noncommercial educational FM station WRVL, Lynchburg, Virginia. **Summary:** The FCC considers the application and pleadings alleging interference to television and radio reception.

The following item has been deleted at the request of the Offices of Commissioners Quello and Washburn from the list of agenda items scheduled for consideration at the October 22, 1981, Open Meeting and previously listed in the Commission's Notice of October 15, 1981.

Agenda, Item No., and Subject

Broadcast—1—Title: Changes in the rules relating to noncommercial, educational FM stations. **Summary:** The Commission will consider a *Third Report and Order* in Docket No. 20735 which would implement new protection criteria for Channel 6 TV reception.

Issued: October 21, 1981.

William J. Tricarico,
Secretary, Federal Communications Commission.

[S-1631-81 Filed 10-26-81; 2:11 pm]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will consider an additional item on the subject listed below at the Open Meeting scheduled for 9:30 a.m., Thursday, October 22, 1981 at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Common Carrier—4—Further Reconsideration of the Second Computer Inquiry (Previously considered at Special Open Meeting, Wednesday, October 7, 1981.)

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Action by the Commission October 21, 1981. Commissioners Fowler, Chairman; Quello, Washburn, Fogarty, Jones, Dawson and Rivera voting to consider this additional item.

Additional information concerning this item may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: October 21, 1981.

William J. Tricarico,
Secretary, Federal Communications Commission.

BILLING CODE 6712-01-M

5

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 51850, Thursday, October 22, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, October 29, 1981.

PLACE: 1700 G Street, N.W., board room, fifth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following items have been added to the open portion of the Bank Board meeting scheduled for Thursday, October 29, 1981.

Applications for Bank Membership, Insurance of Accounts and Preliminary Conversion to a Federal Mutual Charter—North Wilkesboro Savings and Loan Association, North Wilkesboro, North Carolina (nonmember Mutual)
Bank Membership and Insurance of Accounts—Western Carolina Savings and Loan Association, Valdese, North Carolina
Application for Insurance and Conversion to a Federal Mutual Savings Bank—Poughkeepsie Savings Bank, Poughkeepsie, New York
Application for Bank Membership Insurance of Accounts and Conversion to a Federal Mutual Savings Bank—Albany Savings Bank, Albany, New York

No. 553, October 23, 1981.

[S-1625-81 Filed 10-23-81; 4:47 pm]

BILLING CODE 6720-01-M

6

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 51850, Thursday, October 22, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Thursday, October 29, 1981.

PLACE: 1700 G Street, N.W., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following item has been withdrawn from the open portion of the Bank Board meeting scheduled Thursday, October 29, 1981.

Application for Bank Membership, Insurance of Accounts and Preliminary Conversion to

Federal Mutual Charter—North Wilkesboro Savings and Loan Association, North Wilkesboro, North Carolina (Non-member Mutual)

No. 554, October 26, 1981.

[S-1627-81 Filed 10-26-81; 11:05 am]

BILLING CODE 6720-01-M

7

FEDERAL RESERVE SYSTEM

Board of Governors

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR, 51520, Tuesday, October 20, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, October 26, 1981.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from 2 previous meeting; the following such closed item(s) was added:

Issues regarding the Financial Institutions Restructuring and Services Act of 1981. (This matter was originally announced for a meeting on Friday, October 23, 1981)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: October 26, 1981.

James McAfee,
Assistant Secretary of the Board.

[S-1637-81 Filed 10-26-81; 4:00 pm]

BILLING CODE 6210-01-M

8

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Thursday, October 29, 1981.

PLACE: Room 532, (open); room 540 (closed) Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in International Telephone & Telegraph Corporation et al., Docket No. 9000.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in International Telephone & Telegraph Corporation et al., Docket No. 9000.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office

of Public Information: (202) 523-1892;
Recorded Message: (202) 523-3806.

[S-1626-81 Filed 10-26-81; 10:46 am]

BILLING CODE 6760-01-M

9

NATIONAL SCIENCE BOARD

DATE: October 16, 1981.

PLACE: National Science Foundation,
Rm. 540, 1800 G Street, NW.,
Washington, D.C.

STATUS: A brief Open Session was added at 12:05 p.m. immediately following the Closed Session previously announced for October 16, 1981, 10:00 a.m. The item discussed was: Grants, Contracts, and Programs—Office of the Director—Office of Scientific Ocean Drilling Systems—Integration Contract. The addition of this Open Session was announced at the regular Open Session held on Friday, October 16, at 8:30 a.m.

CONTACT PERSON FOR MORE

INFORMATION: Ms. Cathrine Flynn, Staff Assistant, (202) 357-9852.

[S-1628-81 Filed 10-26-81; 2:08 pm]

BILLING CODE 7555-01-M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on November 19, 1981.

PLACE: Room 1101, 1825 K Street, N.W.,
Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE

INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: October 26, 1981.

[S-1633-81 Filed 10-26-81; 3:13 pm]

BILLING CODE 7600-01-M

11

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on November 5, 1981.

PLACE: Room 1101, 1825 K Street, N.W.,
Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE

INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: October 26, 1981.

[S-1635-81 Filed 10-26-81; 3:13 pm]

BILLING CODE 7600-01-M

12

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m. on November 13, 1981.

PLACE: Room 1101, 1825 K Street, N.W.,
Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE

INFORMATION: Mrs. Patricia Bausell (202) 634-4015.

Dated: October 26, 1981.

[S-1634-81 Filed 10-28-81; 3:13 pm]

BILLING CODE 7600-01-M

13

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of November 2, 1981, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, November 3, 1981, at 10:30 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis, Evans, and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 3, 1981, at 10:30 a.m., will be:

Freedom of Information Act appeals.

Litigation matter.

Settlement of administrative proceeding of an enforcement nature.

Institution of administrative proceeding of an enforcement nature.

Institution of injunctive action.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2092.

October 26, 1981.

[S-1636-81 Filed 10-26-81; 3:58 pm]

BILLING CODE 8010-01-M

**State of Oregon
Department of Education**

**Wednesday
October 28, 1981**

Part II

**Department of
Education**

**Direct Grant Program; Application Notices
for Fiscal Year 1982**

DEPARTMENT OF EDUCATION

Direct Grant Programs; Application Notices for Fiscal Year 1982

General

The purpose of the application notices in this document is to inform potential applicants of closing dates for transmittal of applications for certain direct grants awarded by the Department of Education (ED). Other information concerning applications and grants is also provided to assist applicants.

A number of direct grant programs have been omitted from this notice. The programs omitted include programs consolidated into a block grant by the Education Consolidation and Improvement Act of 1981, Pub. L. 97-35, enacted August 13, 1981. A document removing certain obsolete regulations governing these programs was published on August 25, 1981 at 46 FR 42847.

Closing date announcements for those programs that are not included in this notice will be published at a later date.

Organization of Notice

This notice contains two parts. Part I includes, in chronological order, the list of all closing dates covered by this notice. Programs that have previously published their closing dates are designated by an asterisk (*). These dates are republished without change so that potential applicants will be provided a single, comprehensive listing of as many program closing dates as possible. Part II provides the individual application notice for each program. These application notices are in the same order as the closing dates listed in Part I.

The budget estimates in the individual application notices are based on the revised FY 82 budget request and are subject to change by the Congress.

Instructions in Each Application Notice

Applicants who decide to apply under one or more programs covered by this document should take care to follow the instructions described in the application notices for those programs under Part II. Closing dates and specific procedures vary from program to program. The instructions in each application notice inform potential applicants of (1) the closing date for the transmittal of applications; (2) how to obtain application forms; (3) timely mailing of applications; (4) proof of timely mailing; (5) the regulations that govern the program special application procedures, if any; and (6) other procedures and information.

ED Regulations

On May 4, 1980, the Department of Education was officially established. Title 34 of the Code of Federal Regulations (CFR) was organized and established for the regulations of the Department, and certain ED regulations were published in the new Title on May 9, 1980 (45 FR 30802). Regulations published in Title 45 of the CFR were transferred to Title 34 and redesignated on November 21, 1980 (45 FR 77368). Nomenclature and technical amendments in these regulations were published December 30, 1980 (45 FR 86296).

All ED program regulations will eventually be published in Title 34. However, until the Office of the Federal Register publishes a revised title incorporating these changes, the most comprehensive listing of ED program regulations can be found in the current edition of Title 45, revised as of October 1, 1980.

The Education Department General Administrative Regulations (EDGAR), originally published as 45 CFR Parts 100a, 100b, and 100c, have been redesignated as 34 CFR Parts 75, 76, and 77. These regulations continue to apply to grants made for fiscal year 1982.

Timely Mailing of Applications

Applicants should note that the closing date for transmittal of applications applies to the date the application is mailed or hand-delivered. Under the ED procedure, a mailed application meets the requirement if it is mailed on or before the pertinent closing date and the required proof of mailing is provided.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

PART I—PROGRAMS LISTED IN CHRONOLOGICAL ORDER

CFDA No.	Program	Closing date
*84.029	Handicapped personnel preparation program—new projects; noncompeting continuations.	Nov. 6, 1981; Dec. 1, 1981.
*84.133	Rehabilitation engineering centers program	Nov. 9, 1981.
*84.133	Research and Training Centers Program	Nov. 9, 1981.
*84.023A, 84.023B	Student research education of the handicapped	Nov. 13, 1981; Mar. 17, 1982.
*84.019, *84.020, *84.021, *84.022	Faculty research abroad program	Nov. 20, 1981.
	Foreign curriculum consultants program	Nov. 20, 1981.
	Group projects abroad program	Nov. 20, 1981.
	Doctoral dissertation abroad program	Nov. 20, 1981.
84.024A	Handicapped children's early education program—noncompeting continuations.	Nov. 23, 1981.
*84.133	National Institute of Handicapped Research—noncompeting continuations.	Variable.
84.101	Program for Indian tribes and Indian organizations—noncompeting continuations.	Dec. 1, 1981.
84.072, 84.061, 84.062	Indian education—noncompeting continuations	Dec. 1, 1981.
84.060	Indian education grants to local educational agencies and tribal schools.	Dec. 4, 1981.
*84.023C	Field initiated research	Dec. 7, 1981.
84.003K	Bilingual Education Act—fellowship program	Dec. 7, 1981.
84.024A	Handicapped children's early education program	Dec. 10, 1981.
84.015	National resource centers, and fellowships program—noncompeting continuations.	Dec. 15, 1981.
84.026	Media research, production, distribution, and training program	Dec. 16, 1981.
84.016	Undergraduate international studies and Foreign language Program—noncompeting continuations.	Jan. 5, 1982.
84.077	Bilingual vocational training program	Jan. 6, 1982.
84.077	Bilingual education—bilingual vocational training program—noncompeting continuations.	Jan. 6, 1982.
84.099	Bilingual vocational instructor training program	Jan. 6, 1982.
84.099	Bilingual vocational instructor training program—noncompeting continuations.	Jan. 6, 1982.
84.003E	Bilingual Education Act—training projects program—noncompeting continuations.	Jan. 6, 1982.
84.003G	Bilingual Education Act—support services program; bilingual education service centers (BESC's)—noncompeting continuations.	Jan. 6, 1982.
84.003P	Bilingual Education Act—school of education projects program—noncompeting continuations.	Jan. 6, 1982.
84.072, 84.061, 84.062	Indian education	Jan. 8, 1982.
84.101	Program for Indian tribes and Indian organizations—new projects.	Jan. 11, 1982.
84.017	International research and studies program—new and noncompeting continuations.	Jan. 11, 1982.
84.087	Indian education—fellowships for Indian students—noncompeting continuations.	Jan. 11, 1982.
84.003A	Bilingual Education Act—desegregation support program	Jan. 15, 1982.
84.003A	Bilingual Education Act—desegregation support program—noncompeting continuations.	Jan. 15, 1982.
84.003C	Bilingual Education Act—basic projects in bilingual education program—noncompeting continuations.	Jan. 15, 1982.

PART I—PROGRAMS LISTED IN CHRONOLOGICAL ORDER—Continued

CFDA No.	Program	Closing date
84.003G	Bilingual Education Act—support service program: evaluation, dissemination, and assessment centers—noncompeting continuations.	Jan. 15, 1982.
84.003L	Bilingual Education Act—materials development projects program—noncompeting continuations.	Jan. 15, 1982
84.003T	Bilingual Education Act—demonstration projects program—noncompeting continuations.	Jan. 15, 1982.
84.003H	Bilingual Education Act—State educational agency projects for coordinating technical assistance program..	Jan. 25, 1982.
84.003H	Bilingual Education Act—State educational agency projects for coordinating technical assistance program—noncompeting continuations.	Jan. 25, 1982
84.003P	Bilingual Education Act—school of education projects program.	Jan. 25, 1982.
84.005	College library resources program	Jan. 29, 1982.
84.003F	Bilingual Education Act—fellowship program—noncompeting continuations.	Feb. 2, 1982.
84.003J	Bilingual Education Act—training projects program	Feb. 9, 1982.
84.003D	Bilingual Education Act—basic projects in bilingual education program.	Feb. 9, 1982.
84.003L	Bilingual Education Act—support services projects program: bilingual education service centers (BESC's).	Feb. 9, 1982.
84.003N	Bilingual Education Act—demonstration projects program	Feb. 9, 1982.
84.024B	Handicapped children's early education program	Feb. 10, 1982.
84.087	Indian education—fellowships for Indian students	Feb. 16, 1982.
84.141	Grants for special educational programs for students whose families are engaged in migrant and other seasonal farm-work—high school equivalency program.	Feb. 19, 1982.
84.149	Grants for special educational programs for students whose families are engaged in migrant and other seasonal farm-work—college assistance migrant program.	Feb. 19, 1982.
84.024C	Handicapped children's early education program	Apr. 20, 1982.

***84.029—Handicapped Personnel Preparation Program**

Closing Dates: New Projects—November 6, 1981.

Noncompeting Continuations—December 1, 1981

Applications are invited for *new projects* and *non-competing continuation projects* under the Handicapped Personnel Preparation Program.

Closing Date for Transmittal of Applications: Applications for new awards must be mailed or hand delivered by November 6, 1981. To be assured of consideration for funding, applications for non-competing continuations awards should be mailed or hand delivered by December 1, 1981. If an application for a noncompeting continuation award is received after that date, the Department of Education may lack sufficient time to review it with the noncompeting continuation applications and may decline to accept it.

All applications submitted for competition (regardless of state or priority area addressed) will receive equal consideration. The former practice of funding according to State cycle has been eliminated. Under the FY 1982 competitions, applicants may propose project activities for a maximum of up to thirty-six (36) months.

Applications Delivered by Mail: An application sent by mail must be addressed to the Department of Education, Application Control Center,

Washington, D.C. 20202-3561. Attention: 84.029.

An applicant for *new awards* must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An application should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

Applicants for new and non-competing continuing awards are encouraged to use registered or a least first class mail.

Each applicant for *new awards* will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

Hand-delivered applications for *new awards* will not be accepted after 4:30 p.m. on the closing date.

Program Information: Authority for this program is continued in Sections 631, 632, and 634 of Part D of the Education of the Handicapped Act (20 U.S.C. 1431, 1432, and 1434).

This program issues awards to institutions of higher education, other appropriate nonprofit institutions or agencies, and State education agencies.

The purpose of the awards is to improve the quality and increase the supply of special educators and support personnel at both the preservice and inservice levels.

The range of training audiences and disciplines covered by this discretionary program is exceptionally diverse, including: Special educators, speech, language and hearing professionals, early childhood specialists, administrators, teachers aids (paraprofessionals), physical educators, recreation specialists, health/medical personnel, physical therapists, occupational therapists, psychologists, vocational/career educators, regular educators, parents and volunteers. The support of training activities for this broad spectrum of educators and support personnel is consistent with the methods of service delivery provided for the education of our Nation's handicapped children and youth.

Available Funds: The total amount of funds awarded under this grant program for fiscal year 1981 was \$43.5 million, \$32.2 million for noncompeting continuation applications and \$11.3 million for new applications. At this time the fiscal year 1982 appropriation is undertermined. An estimated 850 grants (both noncompeting continuations and new) will be awarded with an average grant totaling \$52,000. These figures are only estimates and do not bind the Department of Education.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Division of Personnel Preparation, Office of Special Education, Department of Education, Room 4805, Donohoe Bldg., 400 Maryland Avenue, SW, Washington, D.C. 20202-4714.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges

that the narrative portion of the application not exceed 75 pages in length. The Secretary further urges that only the information required by the application form be submitted.

Applicable Regulations: The following regulations apply under this program:

(a) Regulations governing Training Personnel in the Education of the Handicapped, 34 CFR Part 318 (formerly 45 CFR Part 121f). Amendments to Part 318 were published in the *Federal Register*:

(1) On April 19, 1977, (42 FR 20298-20300);

(2) On April 3, 1980 (45 FR 22532); and

(3) On January 19, 1981 (46 FR 5372-5392). (The Department is currently reviewing the selection criteria for the Handicapped Personnel Preparation Program that were published in final on January 19, 1981. If the Department proposes substantial changes in the selection criteria for Fiscal Year 1982 awards, the closing date for applications will be extended.)

(b) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 75 and 77 (formerly 45 CFR Parts 100a and 100c) which were published in the *Federal Register* on April 3, 1980 (45 FR 22493-22631) and amended on December 22, 1980 (45 FR 84058-60) and January 14, 1981 (45 FR 3205-06).

Further Information: For further information contact Dr. Herman Saettler, Acting Director, Division of Personnel Preparation, Office of Special Education, Department of Education, (Room 4805, Donohoe Building), 400 Maryland Avenue, SW, Washington, D.C. 20202-4714. Telephone (202) 245-9886.

(20 U.S.C. 1431, 1432, 1434)

*84.133—Rehabilitation Engineering Centers Program

Closing Date: November 9, 1981.

Applications are invited for new Rehabilitation Engineering Center grants for fiscal year 1982 under the National Institute of Handicapped Research.

Authority for this program is contained in Section 204(b)(2) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 (29 U.S.C. 762(b)(2)).

Awards are made under this program to States and public or private agencies and organizations, including institutions of higher education.

The purpose of this program is the establishment and support of Rehabilitation Engineering Research Centers to (A) develop innovative methods of applying advanced medical technology, scientific achievement, and psychological, and social knowledge to

solve rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and to (B) cooperate with State agencies designated pursuant to Section 101 (of the Act) in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

Closing Date for Transmittal of Applications: Applications for grant awards must be mailed or hand delivered by November 9, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133, Washington, D.C. 20202-3561.

An applicant must show proof of mailing, consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered. Amendments received after the closing date also will not be considered in the review of the application.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand delivered application

between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturday, Sunday, and Federal holidays. Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: The proposed funding level for the National Institute of Handicapped Research is expected to be approximately \$26,250,000 for fiscal year 1982. Approximately \$5,660,000 of this amount is expected to be available for funding approximately 11 new Rehabilitation Engineering Research Center grants under this announcement. However, actual availability of funding will be determined by the fiscal year 1982 appropriation. Average funding for each Center will be approximately \$500,000 depending on the scope of approved research activities within the Center. Each Center will be funded for a one year period.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that number is specified by statute or regulations.

Application Forms: Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building 3511, 400 Maryland Avenue, SW., Washington, D.C. 20202-2305 (Attention: Peer Review Unit); (202) 472-6551.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. Applications are urged not to submit information that is not requested.

Applicable Regulations: Regulations governing the program include the following:

(a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77 (formerly 45 CFR Parts 100a and 100c); and

(b) National Institute of Handicapped Research Regulations (34 CFR Parts 350, 351, 352, 353, 354, 355, and 356).

Applicants for fiscal year 1982 grants should base their applications on Section 204(b)(2) of the Act, NIHR regulations and EDGAR.

Further Information: For further information contact Ms. Deborah Linzer, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building 3511, 400 Maryland Avenue, SW., Washington, D.C. 20202-2305. Telephone (202) 472-6551.

***84.133—Research and Training Centers Program**

Closing Date: November 9, 1981.

Applications are invited for new Research and Training Center grants for fiscal year 1982 under the National Institute of Handicapped Research.

Authority for this program is contained in Section 204(b)(1) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 (29 U.S.C. 762(b)(1)).

Awards are made under this program to States and public or private agencies and organizations including institutions of higher education.

The purpose of this program is the establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of (A) providing training (including graduate training), (B) providing coordinated and advanced programs of research in rehabilitation, and (C) providing training (including graduate training) for rehabilitation research and other rehabilitation personnel.

Closing Date for Transmittal of Applications: Applications for grant awards must be mailed or hand delivered by November 9, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133, Washington, D.C. 20202-3561.

An applicant must show proof of mailing, consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

- (1) A private metered postmark, or
- (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered. Amendments received after the closing

date also will not be considered in the review of the application.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C. 20202.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: During fiscal year 1982 the National Institute of Handicapped Research expects to fund up to ten Research and Training Centers which have an identified core area of applied medical rehabilitation research; up to three Research and Training Centers which have an identified core area of vocational rehabilitation research; and, up to four Research and Training Centers which have an identified core area of psychological and social aspects of rehabilitation.

Available Funds: The proposed funding level for the National Institute of Handicapped Research is expected to be approximately \$26,250,000 for fiscal year 1982. Approximately \$11,225,000 of this amount is expected to be available for funding up to 17 new Research and Training Center grants under this announcement. However, actual availability of funding will be determined by the fiscal year 1982 appropriation. Average funding for each Center will be approximately \$675,000 depending on the scope of approved research and training activities within the Center. Each Center will be funded for a one-year period.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that number is specified by statute or regulations.

Application Forms: Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, (Switzer Office Building, Room 3511) 400 Maryland Avenue, SW., Washington, D.C. 20202-2305. (Attention: Peer Review Unit); (202) 472-6551.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. Applicants are urged not to submit information that is not requested.

Applicable Regulations: Regulations governing the program include the following:

(a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77 (formerly 45 CFR Parts 100a and 100c); and

(b) National Institute of Handicapped Research Regulations (34 CFR Parts 350, 351, 352, 353, 354, 355, and 356).

Applicants for fiscal year 1982 grants should base their applications on Section 204 (b)(1) of the Act, NIHR regulations and EDGAR.

Further Information: For further information, contact Ms. Deborah Linzer, National Institute of Handicapped Research, U.S. Department of Education, (Switzer Office Building, Rm. 3511) 400 Maryland Avenue, S.W., Washington, D.C. 20202-2305. Telephone: (202) 472-6551.

***84.023A, 84.023B—Student Research Education of the Handicapped**

Closing Date: November 13, 1981—First Cycle. March 17, 1982—Second Cycle.

Applications are invited for new projects for support of student research related to education of the handicapped.

Authority for this program is contained in sections 641 and 642 of Part E of Education of the Handicapped Act (20 U.S.C. 1441, 1442).

The Secretary announces the selection of Student Research as one of the priority areas for funding for fiscal year 1982 research awards under Part E. This selection was made in accordance with applicable program regulations (34 CFR 324.9(h) and § 324.11) and the Education Department's regulations governing the selection of priorities (34 CFR 75.105(b)).

The purpose of the Student Research program is to provide support to postsecondary students who initiate and direct research projects concerned with educational programs for the handicapped. Most projects support Doctoral dissertations or Master's theses, but this is not a requirement. The content of the research projects is limited only by the Research program mission, which is the support of applied educational research relating to the education of the handicapped.

Closing Date for Transmittal of Applications: Applications for the first cycle awards must be mailed or hand delivered by November 13, 1981. Applications for the second cycle must be mailed or hand delivered by March 17, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the Department of

Education, Application Control Center, Attention: 84.023A for first cycle, 84.023B for second cycle, 400 Maryland Avenue, S.W., Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legible dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipped label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Post Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An application is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m., Washington, D.C. time, daily, except Saturdays, Sundays, or Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: Approximately \$250,000 is expected to be available for support of new Student Research projects in 1982. Typically, student applications are for amounts under \$10,000 and the award period is usually within an 18 month time period. The range of funding for 1980 was from \$1,428 to \$17,881 with a mean grant award of \$7,763. Based on this figure, it is expected that approximately 30 new grants will be awarded in 1982.

While the limit on duration of projects is 60 months, the vast majority of student projects are for one year. In the event that assistance is provided for multiple year projects, grant award will be for a budget period of a single year's duration with continuation awards made in accordance with 34 CFR 75.117, 118 and 75.250-253.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch, Office of Special Education, Department of Education, 400 Maryland Avenue SW., (Donohoe Building, Room 3165), Washington, D.C. 20202-4714.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed twenty (20) pages in length. The Secretary further urges that applicants not submit information that is not required.

Applicable Regulations: The following regulations are applicable to this program:

(a) Regulations governing the Handicapped Research and Demonstration program, 34 CFR Part 324 (formerly 45 CFR Part 121h). Amendments to the final regulations were published in the *Federal Register* on April 3, 1980 (45 FR 22533), January 19, 1981 (45 FR 5380-5381), and June 18, 1981 (45 FR 31996-31998). (The Department is currently reviewing the selection criteria for the Student Research Program that were published in final on January 19, 1981. If the Department proposes substantial changes in the selection criteria for fiscal year 1982 new awards in the Student Research Program, the closing date for applications will be extended.)

(b) Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 75 and 77 (formerly 45 parts 100a and 100c).

For Further Information Contact: Max Mueller, Research Projects Branch, Office of Special Education, Department of Education, 400 Maryland Avenue, SW., (Room 3165, Donohoe Building), Washington, D.C. 20202-4714. Telephone: (202) 245-2275.

(20 U.S.C. 1441, 1442)

***84.019—Faculty Research Abroad Program**

***84.020—Foreign Curriculum Consultants Program**

***84.021—Group Projects Abroad Program**

***84.022—Doctoral Dissertation Abroad Program**

Closing Date: November 20, 1981.

Applications are invited for new projects under the Fulbright-Hays Training Grants—Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad,

and Doctoral Dissertation Research Abroad programs.

Authority for these programs is contained in Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961.

(22 U.S.C. 2452(b)(6))

These programs issue awards to eligible applicants. Eligible applicants for Fulbright-Hays Training Grants are as follows:

a. For the Faculty Research Abroad program, accredited institutions of higher education;

b. For the Foreign Curriculum Consultants program, accredited institutions of higher education, State departments of education, local public school systems, private nonprofit educational organizations, and consortiums of such entities;

c. For the Group Projects Abroad program, accredited institutions of higher education, State departments of education, private nonprofit educational organizations, and consortiums of such entities;

d. For the Doctoral Dissertation Research Abroad program, accredited institutions of higher education which offer doctoral programs in the fields of foreign languages and area studies.

The purpose of the awards is to improve and develop modern foreign language and area studies in the educational structure of the United States.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by November 20, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.019, Faculty Research Abroad program; 84.020, Foreign Curriculum Consultants program; 84.021, Group Projects Abroad program; 84.022, Doctoral Dissertation Research Abroad program, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as

proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Evaluation criteria and eligibility requirements for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs appear in the Code of Federal Regulations in 34 CFR Part 662.

Funding Priorities: The Secretary has not established funding priorities for the Fiscal Year 1982.

Available Funds: It is expected that approximately \$2,510,000 in U.S. dollars and \$936,600 in special foreign currencies will be available for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad and Doctoral Dissertation Research Abroad programs in Fiscal Year 1982.

It is estimated that these funds could support the following distribution of awards:

(a) Twenty Faculty Research Abroad fellows at an average cost of approximately \$14,750.

(b) Ten Foreign Curriculum Consultants at an average cost of approximately \$15,500.

(c) Twenty-four Group Projects Abroad at an average cost of approximately \$74,858.

(d) Seventy-three Doctoral Dissertation Research Abroad fellows at an average cost of approximately \$16,450. It is anticipated that the world area distribution of these fellowships will be within the following ranges: Africa 9-11; Latin America 9-11; East Asia 13-15; Southeast Asia 6-9; East

Europe 13-15; Near East 9-11; South Asia 7-10.

These estimates, however, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that number is specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by September 25, 1981. They may be obtained by writing to the Office of International Education, U.S. Department of Education, (Room 3669, ROB-3) 400 Maryland Avenue, SW., Washington, D.C. 20202-3325.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that the narrative portion of the application not exceed the following pages in length:

(a) For the Faculty Research Abroad program, five pages;

(b) For the Foreign Curriculum Consultants program, ten pages;

(c) For the Group Projects Abroad program, twenty pages;

(d) For the Doctoral Dissertation Research Abroad program, five pages.

The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Higher Education Programs in Modern Foreign Language Training and Area Studies 34 CFR Part 662 (formerly 45 CFR Part 148);

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77 (formerly 45 CFR Parts 100a and 100c).

Further Information: For further information, contact Mr. Ralph Hines, (Group Projects Abroad and Foreign Curriculum Consultants programs) or Mr. John Paul (Doctoral Dissertation Research Abroad and Faculty Research Abroad programs), Office of International Education, U.S. Department of Education (Room 3669, ROB-3), 400 Maryland Avenue, SW., Washington, D.C. 20202-3325. Telephone (202) 245-2794.

(22 U.S.C. 2452(b)(6))

84.024A Handicapped Children's Early Education Program

Closing Date: November 23, 1981.

Applications are invited for noncompeting continuation projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in Sections 623 and 624 of the

Education of the Handicapped Act (20 U.S.C. 1423, 1424).

The purpose of this program is to assist in developing and implementing innovative and experimental programs for young handicapped children (ages birth to 8 years) and their families.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by November 23, 1981.

If the application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Department of Education, Amendments to these regulations were published on April 3, 1980 (45 FR 22532) and January 19, 1981 (46 FR 5378). The Department is currently reviewing the selection criteria contained in the January 19, 1981 amendment. If the Department proposes substantial changes in the selection criteria, the closing date will be extended.

(b) The Education Department General Administrative Regulations (EDGAR), (34 CFR Parts 75 and 77, formerly 45 CFR Parts 100a and 100c) (45 FR 22494-22631, April 3, 1980). Amendments to EDGAR were published on December 22, 1980 (45 FR 84058-84060) and January 14, 1981 (45 FR 3205-3206).

Further Information: For further information contact Ms. Jane DeWeerd, Handicapped Children's Early Education Program, U.S. Department of Education, 400 Maryland Avenue, SW (Donohoe Building, Room 3100), Washington, D.C. 20202-4714, Telephone: (202) 245-9722.

(20 U.S.C. 1423, 1424)

*84.133—National Institute of Handicapped Research-Noncompeting Continuations

Closing Date: Variable.

Applications are invited for noncompeting continuation projects for fiscal year 1982 under the National Institute of Handicapped Research.

Authority for this program is contained in Section 204 of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 (29 U.S.C. 762).

Under this program awards are issued to States and public or private agencies and organizations, including institutions of higher education.

The purpose of the awards is planning and conducting research, demonstration, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational and other rehabilitation services to handicapped individuals, especially those with the most severe handicaps.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, applications for a noncompeting continuation award should be mailed or hand delivered no later than 90 days prior to the end of the current budget period.

If the application is late, the Department of Education may lack sufficient time to review it and may decline to accept it.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.101, Washington, D.C. 20202-3561.

An applicant should show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

- (1) A private metered postmark, or
- (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

The Application Center Control will accept a hand delivered application between 8:00 a.m., and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: The funding level for the National Institute of Handicapped Research is expected to be

approximately \$26,250,000 for fiscal year 1982. Approximately \$6,380,000 of this amount is expected to be available for funding 26 noncompeting continuation projects. However, actual availability of funding will be determined by the fiscal year 1982 appropriation. Average funding for each project will be approximately \$258,000 depending on the scope of approved research activities.

These estimates, however, do not bind the U.S. Department of Education of a specific number of grants or to the amount of any grant unless that number is specified by statute or regulations.

Application Forms: Application forms will be mailed to applicants approximately 90 days before applications are due.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. Applicants are urged not to submit information that is not requested.

Applicable Regulations: Regulations governing this program include the following:

- (a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77 (formerly 45 CFR Parts 100a and 100c).
- (b) National Institute of Handicapped Research Regulations (34 CFR Parts 350, 351, 352, 353, 354, 355, and 356).

Applicants for fiscal year 1982 noncompeting continuation projects should base their applications on Section 204 of the Act, NIHR regulations and EDGAR.

Further Information: For further information contact Ms. Deborah Linzer, National Institute of Handicapped Research, U.S. Department of Education, 400 Maryland Avenue, SW., (Room 3511, Switzer Building), Washington, D.C. 20202-2305. Telephone: (202) 472-6551.

84.101—Program for Indian Tribes and Indian Organizations-Noncompeting Continuations

Closing Date: December 1, 1981.

Applications are invited for noncompeting continuation projects under the Program for Indian Tribes and Indian Organizations.

Authority for this program is contained in Section 103 of the Vocational Education Act of 1963 as amended by the Education Amendments of 1976, Pub. L. 94-482.

This program issues awards to Indian Tribes or Indian Tribal Organizations which are eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and

Education Assistance Act of 1975, Pub. L. 93-638, 25 U.S.C. 450, or under the Act of April 16, 1934, 25 U.S.C. 452-457.

The purpose of the awards is to provide opportunities in Vocational education for Indian Tribes and Indian Organizations.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by December 1, 1981.

If the application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.101, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW, Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: It is anticipated that funds will be available for continuation of projects at the prior year level.

Application Forms: Application forms and program information packages are available.

They may be obtained by writing to the Office of Special Programs, Office of Vocational and Adult Education, U.S. Department of Education (Room 5600, Regional Office Building 3), 400 Maryland Avenue, SW, Washington, D.C. 20202-3579.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Program for Indian Tribes and Indian Organizations 34 CFR Part 408, §§ 408.201-408.214 (formerly 45 CFR Part 105, §§ 105.201-105.214); and

(b) The following provisions of the Education Department General Administrative Regulations (EDGAR), 34 CFR Part 75, (formerly 45 CFR Part 100a) except sections 75.200-75.206 "Selection of New Projects," and 34 CFR Part 77 (formerly 45 CFR Part 100c).

Further Information: For further information contact Earl J. Dodrill or Harvey Thief, Program Officers, Program for Indian Tribes and Indian Organizations, Office of Vocational and Adult Education, U.S. Department of Education, (Room 5026, Regional Office Building 3), 400 Maryland Avenue, SW, Washington, D.C. 20202-3579. Telephone (202) 245-8190.

(20 U.S.C. 2303)

84.072, 84.061, 84.062—Indian Education

Closing Date: December 1, 1981.

Applications are invited for noncompeting continuation projects under the following Indian Education Act programs:

(1) *Part A—Indian-Controlled Schools*

Grants may be made to Indian tribes, Indian organizations, and local educational agencies (LEAs) that will not have been LEAs for not more than three years as of the beginning of the proposed project period for Indian-controlled schools projects. Schools must be operated for Indian children and be located on or near a reservation. Authority for this program is contained in Section 303(b) of Part A of the Act. (20 U.S.C. 241bb(b))

The purposes of these projects are (a) to plan for and establish Indian-controlled schools and (b) to support enrichment projects designed to meet the special educational and culturally related academic needs of Indian children in those schools.

An application must be marked Attention: 84.072.

(2) *Part B—Educational Service for Indian Children*

Grants may be made to State educational agencies (SEAs), LEAs, Indian tribes, Indian organizations, and Indian institutions for educational service projects. Authority for this program is contained in Section 1005(c) of Part B of the Act.

(20 U.S.C. 3385(c))

The purposes of these projects are (a) to provide to Indian children educational services that are not available to those children in sufficient quantity or quality; and (b) to introduce innovative and exemplary approaches into the education of Indian children.

An application must be marked Attention: 84.061.

(3) *Part B—Planning, Pilot, and Demonstration Projects for Indian Children*

Grants may be made to SEAs, LEAs, elementary and secondary schools for Indian children supported by the Department of the Interior, Indian tribes, Indian organizations, and Indian institutions for planning, pilot, and demonstration projects. Authority for this program is contained in Section 1005(b) of Part B of the Act.

(20 U.S.C. 3385(b))

The purpose of these projects is to develop, test, and demonstrate the effectiveness of educational methods, approaches, or techniques to improve educational opportunities for Indian children.

An application must be marked Attention: 84.061.

(4) *Part B—Educational Personnel Development (Section 1005(d))*

Grants may be made to institutions of higher education, and to SEAs and LEAs in combination with those institutions, for educational personnel development projects. Authority for this program is contained in Section 1005(d) of Part B of the Act.

(20 U.S.C. 3385(d))

The purpose of these projects is to prepare educators of Indian people. The maximum stipend allowed for participants at the graduate level will be \$600 per month. The maximum stipend allowed for participants at the undergraduate level will be \$375 per month. A maximum allowance of \$90 per month will be allowed for each dependent.

An application under this program must be marked Attention 84.061.

(5) *Part B—Educational Personnel Development (Section 422)*

Grants may be made to institutions of higher education, Indian tribes, and

Indian organizations for educational personnel development projects.

Authority for this program is contained in Section 422 of the Part B of the Act.

(20 U.S.C. 3385a)

The purpose of these projects is to prepare educators of Indian people. The maximum stipend allowed for participants at the graduate level will be \$600 per month. The maximum stipend allowed for participants at the undergraduate level will be \$375 per month. A maximum allowance of \$90 per month will be allowed for each dependent.

An application under this program must be marked Attention: 84.061.

(6) *Part C—Educational Services for Indian Adults*

Grants may be made to Indian tribes, Indian organizations, and Indian institutions for educational service projects. Authority for this program is contained in Part C of the Act.

(20 U.S.C. 1221a(b))

The purpose of these projects is to improve educational opportunities for Indian adults.

An application must be marked Attention: 84.062.

(7) *Part C—Planning, Pilot, and Demonstration Projects for Indian Adults*

Grants may be made to SEAs, LEAs, Indian tribes, Indian organizations, and Indian institutions for planning, pilot and demonstration projects. Authority for this program is contained in Part C of the Act.

(20 U.S.C. 1211a(a))

The purpose of these projects is to develop, test and demonstrate the effectiveness of educational methods, approaches, or techniques to improve employment and educational opportunities for Indian adults.

An application must be marked Attention: 84.062.

Closing Date for Transmittal of Applications. To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by December 1, 1981.

If an application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to consider it.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Washington, D.C. 20202-3561.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Application Forms: Application forms and program information packages may be obtained by writing to the Office of Indian Education, U.S. Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202-6267.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to these programs include the following:

(a) Regulations governing the Indian Education Act programs, 34 CFR Parts 250, 252-253 and 255-259, (previously 45 CFR Parts 186, 186b-186c and 186e-186i) published on May 21, 1980 at 45 FR 34152; and

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information, contact Louis J. McGuinness, Acting Special Assistant

for Indian Education Programs, U.S. Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202-6267. Telephone: (202) 245-8020.

(20 U.S.C. 241bb(b), 3385, 3385a, and 1211a)

84.060—Indian Education Grants to Local Educational Agencies and Tribal Schools

Closing Date: December 4, 1981.

Applications are invited for new and noncompeting continuation projects under the Indian Education Act program of entitlement grants to local educational agencies (LEAs) and tribal schools.

Authority for this program is contained in Part A of the Indian Education Act, as amended (20 U.S.C. 241aa-241ff).

This program authorizes grants to LEAs and to certain Indian Tribes and Indian organizations described in Section 1146 of Pub. L. 95-561.

The purpose of these grants is to support elementary and secondary school programs designed to meet the special educational and culturally related academic needs of Indian children.

Closing Date for Transmittal of Applications: An application for new awards and noncompeting continuations must be mailed or hand delivered by December 4, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.060, Washington, D.C. 20202-3561.

To establish proof of mailing by the deadline date, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An applicant is encouraged to use registered or at least first class mail.

Each late applicant for a new award will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new grant will not be accepted after 4:30 p.m. on the closing date.

Available Funds: It is estimated that there will be \$46,217,600 available for this program. The amount of each grant is based on a formula that takes into account the Indian enrollment in the applicant's schools and the average per pupil expenditure of school districts in the applicant's State.

Application Forms: Application forms and program information packages may be obtained by writing to the Office of Indian Education, U.S. Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202-6267.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 25 pages. The Secretary further suggests that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing programs under Part A of the Indian Education Act, 34 CFR Parts 250 and 251 (previously 45 CFR Parts 186 and 186a) published on May 21, 1980 at 45 FR 34152; and

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information, contact Louis J. McGuinness, Acting Special Assistant for Indian Education Programs, U.S. Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202-6267. Telephone: (202) 245-8020.

(20 U.S.C. 241aa-241ff)

***84.023C—Field Initiated Research**

Closing Date: December 7, 1981.

Applications are invited for new projects for support of Field Initiated Research related to education of the handicapped.

Authority for this program is contained in sections 641 and 642 of Part E of Education of the Handicapped Act (20 U.S.C. 1441, 1442).

The purpose of this program is to provide a source of support for a broad range of research and development projects which fall outside any areas of interest identified by the Education Department as priorities for directed research activities. The appropriate areas of interest for projects are limited only by the mission of the Research program—support of applied research relating to education of the handicapped.

Closing Date for Transmittal of Applications: Applications for awards must be mailed or hand delivered by December 7, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.023C, 400 Maryland Avenue, SW., Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An application should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays. An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: Approximately \$3,000,000 is expected to be available for support of new Field Initiated Research projects in FY 1982. Based on a mean grant amount in recent years of approximately \$90,000 we expect that about 33 new grants will be awarded. The range of funding for 1980 projects was from under \$20,000 per year to over \$150,000. Most awards were for under \$100,000 per year.

While the limit on duration of projects is 60 months, the vast majority of field-initiated projects are for one to three years. In the event that assistance is provided for multiple year projects, grant awards will be for a budget period of a single year's duration with continuation awards made in accordance with 34 CFR 75.117, 118 and 75.250-253.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Research Projects Branch, Office of Special Education, Department of Education, 400 Maryland Avenue SW., (Donohoe Building, Room 3165), Washington, D.C. 20202-4714.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed thirty (30) pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: The following regulations are applicable to this program:

(a) Regulations governing the Handicapped Research and Demonstration program, 34 CFR part 324 (formerly 45 CFR Part 121(n)). Amendments to the Final regulations were published in the *Federal Register* on April 3, 1980 (45 FR 22533), January 19, 1981 (46 FR 5380-5381), and June 18, 1981 (45 FR 31996-31998). (The Department is currently reviewing the selection criteria for the Research Program that were published in final on January 19, 1981. If the Department proposes substantial changes in the selection criteria for fiscal year 1982 new awards in the Field Initiated Research program, the closing date for applications will be extended.)

(b) Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 75 and 77 (formerly 45 CFR parts 100a and 100c).

For Further Information Contact: Max Mueller, Research Projects Branch, Office of Special Education, Department of Education, 400 Maryland Avenue SW., (Room 3165, Donohoe Building), Washington, D.C. 20202-4714. Telephone: (202) 245-2275.

(20 U.S.C. 1441, 1442).

84.003K—Bilingual Education Act—Fellowship Program Closing Date: December 7, 1981.

Applications are invited for participation in the Fellowship Program under the Bilingual Education Act.

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3233)

The Secretary approves for participation in the Fellowship Program an institution of higher education that offers a program of study leading to a degree above the master's level in the field of training teachers for bilingual education. The Secretary awards fellowships to individuals nominated by the approved institutions of higher education.

The purpose of the fellowships is to provide financial assistance to full-time graduate students who are preparing to become trainers of teachers for bilingual education.

Closing Date for Transmittal of Applications: An application for participation must be mailed or hand delivered by December 7, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003K, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A

private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: An institution of higher education may be approved for participation in the Fellowship Program for a period of from one to five years based on the quality of its bilingual education training program. The Secretary notifies an approved institution of higher education of the numbers of students by language(s) that it may nominate for fellowship support.

An individual interested in receiving a fellowship must apply directly to approved institutions of higher education. Fellowships are awarded for only one year at a time. A new application must be filed each year at the institution in which the individual wishes to enroll. A list of participating institutions may be obtained by calling or writing the Office of Bilingual Education and Minority Languages Affairs contact person.

In accordance with the program regulations, individuals who are selected will be required to sign a contract by which they will agree either to work for an equivalent period of time in an activity related to training bilingual education personnel or to repay the assistance received. Additional information on the service requirement is contained in program regulations.

Available Funds: It is expected that approximately \$1,198,000 will be available for fellowships at newly approved institutions under the Fellowship Program in fiscal year 1982.

It is estimated that these funds could support 142 fellowships.

However, these estimates do not bind the Department of Education to a specific number of fellowships unless that number is otherwise specified by statute or regulations.

Application Forms: Application packages will be ready for mailing October 30, 1981. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202-5401.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms, included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Fellowship Program, 34 CFR Parts 500 and 515 (previously 45 CFR Parts 123 and 123h).

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

For Further Information: For further information contact Ms. Paquita Biascoechea, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202-5401. Telephone (202) 245-2595.

(20 U.S.C. 3233).

84.024A—Handicapped Children's Early Education Program

Closing Date: December 10, 1981.

Applications are invited for new demonstration projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in sections 623 and 624 of the Education of the Handicapped Act (20 U.S.C. 1423, 1424).

The purpose of this program is to support experimental demonstration activities which can provide innovative and effective means of serving preschool and early education handicapped children and their families and to develop models which others can use.

Closing Date for Transmittal of Applications: Applications for awards must be mailed or hand delivered by December 10, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.024A, 400 Maryland Avenue, SW., Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Street, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m. (Washington, D.C. time), daily except Saturdays, Sundays, or Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: The anticipated number of new demonstration awards for fiscal year 1982 is twenty-five. Funding for new demonstration projects in previous years has averaged between \$60,000 and \$80,000.

However, these estimates do not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are

available and may be obtained by writing to the Handicapped Children's Early Education Program, Office of Special Education, Department of Education, 400 Maryland Avenue, S.W., (Donohoe Building) Washington, D.C. 20202-4714.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed fifty (50) pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (34 CFR Part 309, formerly 45 CFR Part 121d). Amendments to these regulations were published on April 3, 1980 (45 FR 22532) and January 19, 1981 (46 FR 5378). The Department is currently reviewing the selection criteria contained in the January 19, 1981 amendment. If the Department proposes substantial changes in the selection criteria, the closing date will be extended; and

(b) The Education Department General Administrative Regulations (EDGAR), (34 CFR Parts 75 and 77, formerly 45 CFR Parts 100a and 100c).

For Further Information Contact: Ms. Jane DeWeerd, Handicapped Children's Early Education Program, Office of Special Education, Department of Education, 400 Maryland Avenue SW., (Donohoe Building), Washington, D.C. 20202-4714, Telephone: 202/245-9722.

(20 U.S.C. 1423, 1424)

84.015—National Resource Centers and Fellowship Program

Closing Date: December 15, 1981.

Application Notice for Noncompeting Continuation Projects for Fiscal Year 1982.

Applications are invited for noncompeting continuation projects under the National Resource Centers and Fellowships Program.

These projects are authorized under section 602 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1122)

The National Resource Centers and Fellowships Program issues awards to individual institutions of higher education; consortia applications are eligible but must be submitted by a member institution.

The purpose of the awards under the National Resource Centers portion of the program is to provide general assistance for nationally significant programs in foreign language and area studies and in foreign language and international studies. The purpose of the awards under the fellowship portion of the program is to assist individuals undergoing advanced training in modern foreign languages and related area studies through awards to approved institutions.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by December 15, 1981.

If the application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.015 (National Resource Centers and Fellowships Program), Washington, D.C. 20202-3561.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW, Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except

Saturdays, Sundays, and Federal holidays.

Program information: Specific information about these programs is contained in the regulations (published in the Federal Register on December 31, 1980, 34 CFR Parts 655 and 656) and in the program information and application package.

Available funds: Under the President's revised budget which was transmitted to the Congress in September, 1981, it is estimated that approximately \$8,123,000 will be available for continuation grants for centers in FY 1982, and that 90 continuation grants will be awarded.

It is estimated that \$4,980,500 will be available for approximately 586 academic year fellowships.

These estimates do not bind the U.S. Department of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by November 2, 1981. They may be obtained by writing to: International Education Programs, U.S. Department of Education, (Room 3923, Regional Office Building 3), 400 Maryland Avenue, SW, Washington, D.C. 20202-3323.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. The Secretary urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to these continuation applications include the following:

(a) Regulations governing the National Resource Centers and Fellowships Program (34 CFR Parts 655 and 656); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Part 75—General; and 34 CFR Part 77—Definitions).

Further Information: For further information, contact Joseph F. Belmonte, International Education Programs, U.S. Department of Education, (Room 3923, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202-3323, Telephone (202) 245-2356.

(20 U.S.C. 1122)

84.026—Media Research, Production, Distribution, and Training Grant Program

Closing Date: December 16, 1981.

Applications are invited for new projects under the Educational Media Research, Production, Distribution, and Training Grant Program.

Authority for this program is contained in Sections 651 and 652 of Part F of the Education of the Handicapped Act, as amended.

(20 U.S.C. 1451, 1452)

This program issues awards to profit or nonprofit public and private agencies, organizations, and institutions to promote the advancement of handicapped persons through media by assisting research, production, distribution, and training in the use of media.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by December 16, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.026, Washington, D.C. 20202-4714.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: Previous first year awards for new projects have been between \$25,000 and \$220,000 with the average just over \$120,000. It is anticipated that most new awards will fall in this range. The appropriation for FY 82 is undetermined at this time. However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available. They may be obtained by writing to the Division of Educational Services, Office of Special Education and Rehabilitative Services, U.S. Department of Education (Room 4819, Donohoe Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-4714.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Educational Media Research, Production, Distribution and Training Program (34 CFR Part 332), published in final as the former 45 CFR Part 121q on August 5, 1980 at 45 FR 52132-52133. Final amendments to the selection criteria for the program were published on January 14, 1981 (46 FR 3206-3207). The Department is currently reviewing these amending regulations. If the Department proposes substantial changes in the regulations, the closing date for applications will be extended.

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 75 and 77, formerly 45 CFR Parts 100a and 100c).

Further Information: For further information contact Dr. John Tringo, Grants Program Officer, Division of Educational Services, Office of Special Education and Rehabilitative Services, U.S. Department of Education (Donohoe Building, Room 4819), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 472-4640.

(20 U.S.C. 1451, 1452)

Applications are invited for noncompeting continuation projects under the Undergraduate International Studies and Foreign Language Program.

Authority for these programs is contained in Section 604 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1124)

The Undergraduate International Studies and Foreign Language Program issues awards to individual institutions of higher education and to public and non-profit private agencies and organizations.

The purpose of the awards is to:

(a) Assist institutions of higher education to plan, develop, and carry out a comprehensive program to strengthen and improve undergraduate instruction in international studies and foreign languages, and

(b) Assist associations and organizations to develop projects that will make an especially significant contribution to strengthening and improving undergraduate instruction in international studies and foreign languages.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by January 5, 1982.

If the application is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation application and may decline to accept it.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.016 (Undergraduate International Studies Program), Washington, D.C. 20202-3561.

An applicant should show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly

84.016—Undergraduate International Studies and Foreign Language Program

Closing Date: January 5, 1982.

provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered should be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: Under the President's revised budget which was sent to the Congress in September, 1981 it is estimated that approximately \$1,016,500 will be available for continuation grants in fiscal year 1982, and that approximately 33 continuation grants will be awarded.

These estimates do not bind the U.S. Department of Education except as may be required by the applicable statute and regulations.

Application Forms: Application forms and program information packages are available. They may be obtained by writing to International Studies Branch, International Education Programs, U.S. Department of Education, (Room 3669, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202-3325.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. The Secretary urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Undergraduate International Studies and Foreign Language Program (34 CFR Parts 655 and 658) that were published in the Federal Register on December 31, 1980, 45 FR 86874-86876 and 86879-86881, and

(b) Education Department General Administrative Regulations (EDGAR) (34 Parts 75 and 77). These parts were previously codified as 45 CFR Part 100a and 45 CFR 100c respectively.

Further Information: For further information contact Mrs. Susanna Easton, International Studies Branch, International Education Programs, U.S. Department of Education, (Room 3669, Regional Office Building 3), 400 Maryland Avenue, SW., Washington,

D.C. 20202-3325. Telephone (202) 245-2794.

(20 U.S.C. 1124)

84.077—Bilingual Vocational Training Program

Closing Date: January 6, 1982.

Applications are invited for new projects under the Bilingual Vocational Training Program.

Authority for this program is contained in Sections 181-189B of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976.

(20 U.S.C. 2411-2421)

This program issues awards to local educational agencies, State agencies, postsecondary educational institutions, private nonprofit vocational training institutions, and nonprofit educational or training organizations especially created to serve a group whose language as normally used is other than English.

The purpose of the awards is to provide bilingual vocational training to persons who are from environments where the dominant language is other than English and who are unemployed or underemployed because of their limited English speaking ability.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by January 6, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.077, Washington, D.C. 20202-3561.

An applicant must show proof of mailing, consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encourage to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: An applicant may propose a project period of from one to two years.

Available Funds: It is expected that approximately \$224,000 will be available for the Bilingual Vocational Training program in FY 1982.

It is estimated that these funds could support 1 or 2 projects.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Applications are expected to be ready for mailing in November 1981. They will be mailed to individuals on the mailing list for the Bilingual Vocational Training Programs. A copy of the application package may be obtained by writing to the Bilingual Vocational Training Program, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Special Procedures: In order to give the State Board for Vocational Education an opportunity to comment on its application as required in 34 CFR 525.604(a) of the program regulations, an applicant must provide a copy of its application to the State Board for Vocational Education at the same time it is submitted to the Department of Education.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Vocational Training Program, 34 CFR Part 525 (previously 45 CFR Part 105).

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

(3) The Department of Labor regulations (29 CFR 676.26) governing training allowances for participants in the Bilingual Vocational Training Program.

Further Information: For further information contact Ms. Joan Cassidy, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401. Telephone (202) 245-2595.

(20 U.S.C. 2411-2421)

84.077—Bilingual Education—Bilingual Vocational Training Program

Closing Date: January 6, 1982.

Applications are invited for noncompeting continuation awards under the Bilingual Vocational Training Program.

Authority for this program is contained in Sections 181-189B of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976.

(20 U.S.C. 2411-2421)

Current recipients of grants under this program which have an approved project period in excess of one year may apply for continuation of their present projects.

The purpose of the awards is to provide bilingual vocational training to persons who are from environments where the dominant language is other than English and who are unemployed or underemployed because of their limited English speaking ability.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a continuation award should be mailed or hand delivered by January 6, 1982.

If the application is late, the Department of Education may lack sufficient time to review it with other applications for noncompeting continuations and may decline to accept it.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.077, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: It is expected that approximately \$2,350,000 will be available for 12 noncompeting continuation grants under the Bilingual Vocational Training Program in fiscal year 1982.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application packages are expected to be ready for mailing by November 1981. They will be mailed to each current recipient of a multi-year award. A copy of the application may be obtained by writing to the Bilingual Vocational Training Program, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401.

Applications must be prepared and submitted in accordance with the

regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed five pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Vocational Training Program, 34 CFR Part 525 (previously 45 CFR 105.601-105.607).

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

(3) The Department of Labor regulations (29 CFR 676.26) governing training allowances for participants in the Bilingual Vocational Training Program.

For Further Information: For further information contact the Bilingual Vocational Training Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401. Telephone (202) 245-2595.

(20 U.S.C. 2411-2421)

84.099—Bilingual Vocational Instructor Training Program

Closing Date: January 6, 1982.

Applications are invited for new projects under the Bilingual Vocational Instructor Training Program.

Authority for this program is contained in Sections 181-189B of the Vocational Education Act of 1963, as amended by the Education Amendments of 1976.

(20 U.S.C. 2411-2421)

This program issues awards to State agencies, public and private nonprofit educational institutions, and private-for-profit educational institutions.

The purpose of the awards is to provide training programs for persons seeking to improve their skills and qualifications as instructors in bilingual vocational training programs for persons of limited English speaking ability.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by January 6, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center,

Attention: 84.099, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If the application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: An applicant may propose a project period of from one to two years.

Available Funds It is expected that approximately \$165,000 will be available for the Bilingual Vocational Instructor Training Program in FY 1982.

It is estimated that these funds could support 1 new project.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Applications are expected to be ready for mailing in November 1981. They will be mailed to individuals on the mailing list for the Bilingual Vocational Training Programs. A copy of the application package may be obtained by writing to the Bilingual Vocational Training Program, Office of

Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Vocational Instructor Training Program, 34 CFR Part 526 (previously 45 CFR 105.611-105.617).

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Ms. Joan Cassidy, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401. Telephone: (202) 245-2595.

(20 U.S.C. 2411-2421)

84.099—Bilingual Vocational Instructor Training Program

Closing Date: January 6, 1982.

Applications are invited for noncompeting continuation awards under the Bilingual Vocational Instructor Training Program.

Authority for this program is contained in Sections 181-189B of the Vocational Education Act of 1983, as amended by the Education Amendments of 1976.

(20 U.S.C. 2411-2421)

Current recipients of grants under this program which have an approved project period in excess of one year may apply for continuation of their present projects.

The purpose of the awards is to provide training programs for persons seeking to improve their skills and qualifications as instructors in bilingual vocational training programs for persons of limited English speaking ability.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a continuation award should be mailed or hand delivered by January 6, 1982.

If the application is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.099, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturday, Sunday, and Federal holidays.

Available Funds: It is expected that approximately \$825,000 will be available for 5 noncompeting continuations under the Bilingual Vocational Instructor Training Program in FY 1982.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application packages are expected to be ready for mailing in November 1981. They will be mailed to each current recipient of a multi-year award. A copy of the application package may be obtained by writing to the Bilingual Vocational Training Program, Office of Bilingual

Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed five pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Vocational Instructor Training Program, 34 CFR Part 526 (previously 45 CFR 105.611-617).

(2) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact the Bilingual Vocational Training Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401. Telephone: (202) 245-2590.

(20 U.S.C. 2411-2421)

84.003E—Bilingual Education Act—Training Projects Program

Closing Date: January 6, 1982.

Requests are invited for noncompeting continuations under the Bilingual Education Act—Training Projects Program.

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3233)

Current recipients of grants under this program which have an approved project period in excess of one year may request continuation of their present projects.

The purpose of the awards is to establish, operate, and improve bilingual education training programs for persons participating in, or preparing to participate in, programs of bilingual education and bilingual education training programs.

Closing Date for Transmittal of Requests: To be assured of consideration for funding, requests for

noncompeting continuation awards should be mailed or hand delivered by January 6, 1982.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail: A request sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003E, Washington, D.C. 20202-3561.

A grantee should show proof of mailing, consisting of one of the following:

(1) A legibly dated U.S. Postal service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

A grantee should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, a grantee should check with its local post office.

Grantees are encouraged to use registered or at least first class mail.

Requests Delivered by Hand: A request that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered request between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: It is expected that approximately \$10,500,000 will be available for 100 noncompeting continuation grants under the Training Projects Program in fiscal year 1982.

Request Forms: Request packages are expected to be ready for mailing in November 1981. They will be mailed to each current recipient of a multi-year award. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Reporters Building, Room 421), 400 Maryland Avenue, S.W., Washington, D.C. 20202-5401.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the request package. The Secretary urges that grantees not submit information that is not requested.

Applicable Regulations: The regulations applicable to this program include the following:

(a) The regulations governing the Training Projects Program, 34 CFR Parts 500 and 510 (previously 45 CFR Parts 123 and 123e).

(b) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact the Training Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Reporters Building, Room 421), 400 Maryland Avenue, S.W., Washington, D.C. 20202-5401. Telephone (202) 245-2600.

(20 U.S.C. 3233)

84.003G—Bilingual Education Act—Support Services Program: Bilingual Education Service Centers (BESCs)

Closing Date: January 6, 1982.

Requests are invited for noncompeting continuation projects under the Bilingual Education Act—Support Services Projects program: Bilingual Education Service Centers (BESCs).

Authority for this program is contained in Sections 721 and 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3231, 3233)

Current recipients of grants under this program which have an approved project period in excess of one year may request continuation of their present projects.

The purpose of the awards is to provide training and other services to programs of bilingual education and bilingual education training programs within designated service areas.

Closing Date for Transmittal of Requests: To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 6, 1982.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail: A request sent by mail must be addressed

to the U.S. Department of Education, Application Control Center, Attention: 84.003G, Washington, D.C. 20202-3561.

A grantee should show proof of mailing, consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

A grantee should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, a grantee should check with its local post office.

Grantees are encouraged to use registered or at least first class mail.

Requests Delivered by Hand: A request that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept a hand delivered request between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: It is expected that approximately \$8,500,000 will be available for 15 noncompeting continuation grants under the Support Services Projects Program: BESC's in fiscal year 1982.

Request Forms: Request packages are expected to be ready for mailing in November 1981. They will be mailed to each current recipient of a multi-year award. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue SW., Washington, D.C. 20202-5401.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the request package. The Secretary urges that grantees not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

- (1) The regulations governing the Support Services Projects Program, 34

CFR Parts 500 and 504 (previously 45 CFR Parts 123 and 123d).

- (2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Mr. Charles Miller, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue SW., Washington, D.C. 20202-5401. Telephone (202) 245-2961.

(20 U.S.C. 3231, 3233)

84.033P—Bilingual Education Act—School of Education Projects Program

Closing Date: January 6, 1982.

Applications are invited for noncompeting continuation awards under the Bilingual Education Act—School of Education Projects Program:

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3233)

Current recipients of grants under this program which have an approved project period in excess of one year may request continuation of their present projects.

The purpose of the awards is to assist institutions of higher education in developing or expanding their capability to provide degree-granting bilingual education training programs.

Closing Date for Transmittal of Applications. To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 6, 1982.

If an application is late, the Department of Education may lack sufficient time to review it with other applications for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail: A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003P, Washington, D.C. 20202-3561.

A grantee should show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipped label, invoice, or receipt from a commercial carrier.

- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Post Service, the Secretary does not accept either of the following as proof of mailing:

- (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

A grantee should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

A grantee is encouraged to use registered or at least first class mail.

Requests Delivered by Hand: A request that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a handdelivered request between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: It is expected that approximately \$850,000 will be available for 30 noncompeting continuation grants under the School of Education Projects Program in fiscal year 1982.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Request Forms: Request packages are expected to be ready for mailing in November 1981. They will be mailed to each current recipient of a multi-year award. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building) 400 Maryland Avenue, SW., Washington, D.C. 20202-5401.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the request package. The Secretary urges that grantees not submit information that is not requested.

Application Regulations: Regulations applicable to this program include the following:

- (1) The regulation governing the School of Education Projects Program, 34 CFR Parts 500 and 514 (previously 45 CFR Parts 123 and 123f)
- (2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Ms. Paquita Biascoechea, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401., Telephone (202) 245-2595.

(20 U.S.C. 3233)

84.072, 84.061, 84.062—Indian Education

Closing Date: January 8, 1982.

Applications are invited for new projects under the following Indian Education Act programs:

(1) *Part A—Indian-Controlled Schools.* Grants may be made to Indian tribes, Indian organizations, and local educational agencies (LEAs) that will have been LEAs for not more than three years as of the beginning of the proposed project period for Indian-controlled schools projects. Schools must be operated for Indian children and be located on or near a reservation. Authority for this program is contained in Section 303(b) of Part A of the Act.

(20 U.S.C. 241bb(b))

The purposes of these projects are (a) to plan for and establish Indian-controlled schools and (b) to support enrichment projects designed to meet the special educational and culturally related academic needs of Indian children in those schools.

It is estimated that there will be \$4,162,400 available, of which approximately \$2,802,284 will support 17 noncompeting continuation grantees. That will leave approximately \$1,360,116 support new projects under this announcement.

Last year (fiscal year 1981), awards under this program totaled \$4,730,000. Of that amount, \$1,472,426 was awarded to 13 of the 28 applicants for new projects. The 1981 awards ranged from \$22,695 to \$271,924.

An application under this program must be marked Attention: 84.072.

(2) *Part B—Educational Services for Indian Children.* Grants may be made to State educational agencies (SEAs), LEAs, Indian tribes, Indian organizations, and Indian institutions for educational service projects. Authority for this program is contained in Section 1005(c) of Part B of the Act, 20 U.S.C. 3385(c).

The purposes of these projects are (a) to provide to Indian children educational services that are not available to those children in sufficient quantity or quality; and (b) to introduce innovative and exemplary approaches into the education of Indian children.

It is estimated that there will be \$3,520,000 available, of which approximately \$1,897,781 will support 10 noncompeting continuation grantees. That will leave approximately \$1,622,219 to support new projects under this announcement.

Last year (fiscal year 1981), awards under this program totaled \$3,873,284. Of that amount, \$654,821 was awarded to 5 of the 61 applicants for new projects. The 1981 awards ranged from \$8,318 to \$468,292.

An application under this program must be marked Attention: 84.061.

(3) *Part B—Planning, Pilot, and Demonstration Projects for Indian Children.* Grants may be made to SEAs, LEAs, elementary and secondary schools for Indian children supported by the Department of the Interior, Indian tribes, Indian organizations, and Indian institutions for planning, pilot, and demonstration projects. Authority for this program is contained in Section 1005(b) of Part B of the Act, 20 U.S.C. 3385(b).

The purpose of these projects is to develop, test, and demonstrate the effectiveness of educational methods, approaches, or techniques to improve educational opportunities for Indian children.

It is estimated that there will be \$3,080,000 available, of which approximately \$2,920,513 will support 19 noncompeting continuation grantees. That will leave approximately \$159,487 to support new projects under this announcement.

Last year (fiscal year 1981), awards under this program totaled \$4,678,596. Of that amount \$2,330,092 was awarded to 16 of the 56 applicants for new projects. The 1981 awards ranged from \$36,062 to \$435,804.

An application under this program must be marked Attention: 84.061.

(4) *Part B—Educational Personnel Development.* (Section 1005(d)) Grants may be made to institutions of higher education, and to SEAs and LEAs in combination with those institutions, for educational personnel development projects. Authority for this program is contained in Section 1005(d) of Part B of the Act, 20 U.S.C. 3385(d).

The purpose of these projects is to prepare educators of Indian people.

It is estimated that there will be \$1,760,000 available, of which approximately \$1,687,878 will support 8 noncompeting continuation grantees. That will leave approximately \$72,122 to support new projects under this announcement.

Last year (fiscal year 1981), awards under this program totaled \$2,027,092. Of that amount, \$570,465 was awarded to 3

of the 18 applicants for new projects. The 1981 awards ranged from \$132,056 to \$283,943. The maximum stipend allowed for participants at the graduate level will be \$600 per month. The maximum stipend allowed for participants at the undergraduate level will be \$375 per month. A maximum allowance of \$90 per month will be allowed for each dependent.

An application under this program must be marked Attention: 84.061.

(5) *Part B—Educational Personnel Development* (Section 422)—Grants may be made to institutions of higher education, Indian tribes, and Indian organizations for educational personnel development projects. Authority for this program is contained in Section 422 of Part B of the Act, 20 U.S.C. 3385a.

The purpose of these projects is to prepare educators of Indian people.

It is estimated that there will be \$1,760,000 available, of which approximately \$1,536,234 will support 7 noncompeting continuation grantees. That will leave approximately \$223,766 to support new projects under this announcement.

Last year (fiscal year 1981), awards under this program totaled \$1,921,028. Of that amount, \$432,418 was awarded to 3 of the 30 applicants for new projects. The 1981 awards ranged from \$116,302 to \$452,082. The maximum stipend allowed for participants at the graduate level will be \$600 per month. The maximum stipend allowed for participants at the undergraduate level will be \$375 per month. A maximum allowance of \$90 per month will be allowed for each dependent.

An application under this program must be marked Attention: 84.061.

(6) *Part C—Educational Services for Indian Adults.*—Grants may be made to Indian tribes, Indian organizations, and Indian institutions for educational service projects. Authority for this program is contained in Part C of the Act, 20 U.S.C. 1211a(b).

The purpose of these projects is to improve educational opportunities for Indian adults.

It is estimated that there will be \$3,502,400 available, of which approximately \$2,283,782 will support 20 noncompeting continuation grantees. That will leave approximately \$1,218,618 to support new projects under this announcement.

Last year (fiscal year 1981), awards under this program totaled \$4,082,222. Of that amount, \$1,548,953 was awarded to 13 of the 65 applicants for new projects. The 1981 awards ranged from \$58,951 to \$228,090.

An application under this program must be marked Attention: 84.062.

(7) *Part C—Planning, Pilot, and Demonstration Projects for Indian Adults.*—Grants may be made to SEAs, LEAs, Indian tribes, Indian organizations, and Indian institutions for planning, pilot, and demonstration projects. Authority for this program is contained in Part C of the Act, 20 U.S.C. 1211a(a).

The purpose of these projects is to develop, test, and demonstrate the effectiveness of educational methods, approaches, or techniques to improve employment and educational opportunities for Indian adults.

It is estimated that there will be \$1,276,000 available, of which approximately \$781,354 will support 7 noncompeting continuation grantees. That will leave approximately \$494,646 to support new projects under this announcement.

In fiscal year 1981, awards under this program totaled \$1,347,777. Of that amount, \$1,081,402 was awarded to 11 of the 13 applicants for new projects. The 1981 awards ranged from \$12,161 to \$185,448.

An application under this program must be marked Attention: 84.062.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by January 8, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an application should check with its local post office. An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Application Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: These estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant.

Application Forms: Application forms and program information packages are available. They may be obtained by writing to the Office of Indian Education, U.S. Department of Education, Room 2177, 400 Maryland Avenue, S.W., Washington, D.C. 20202-6267.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 65 pages. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to these programs include the following:

- (1) Regulations governing the Indian Education Act programs 34 CFR Parts 250, 252-253, and 255-259 (previously 45 CFR Parts 186, 186b-186c and 186e-186i) published on May 21, 1980 at 45 FR 34152; and
- (b) the Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information, contact Louis J. McGuinness, Acting Special Assistant for Indian Education Programs, U.S. Department of Education, Room 2177, 400 Maryland Avenue, S.W., Washington, D.C. 20202-6267. Telephone (202) 245-8020.

(20 U.S.C. 241bb(b), 3385, 3385a, and 1211a)

84.101—Program For Indian Tribes and Indian Organizations—New Projects

Closing Date: January 11, 1982.

Applications are invited for new projects under the Program for Indian Tribes and Indian Organizations.

Authority for this program is contained in Section 103 of the Vocational Education Act of 1963 as amended by the Education Amendments of 1976, Pub. L. 94-482.

This program issues awards to Indian Tribes or Tribal Organizations which are eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act of 1975, Pub. L. 93-638, 25 U.S.C. 450, or under the Act of April 16, 1934, 25 U.S.C. 452-457.

The purpose of the awards is to provide opportunities in vocational education for Indian Tribes and Indian Organizations.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by January 11, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.101, Washington, D.C. 20202-3561.

An application must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application

between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Applications are accepted from Indian Tribes and Indian Organizations which are eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act of 1975, Pub. L. 93-638, 25 U.S.C. 450, or under the Act of April 16, 1934, 25 U.S.C. 452-457.

(1) An award will not exceed three fiscal years. Continuation funding is contingent upon satisfactory performance. Applications for multi-year awards shall have a detailed budget for the current year and total budget figures for the subsequent years.

(2) A request for continuation of a project beyond the project period will be considered a new application and will be reviewed competitively with all other applications. In order for the Secretary to make this determination, an applicant who has had a prior grant under this program shall include an evaluation of the previous project.

Available Funds: It is expected that approximately \$663,000 will be available for new projects in fiscal year 1982 under the Program for Indian Tribes and Indian Organizations.

It is estimated that these funds could support up to 4 new projects.

The anticipated award for each new project will be approximately \$203,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available. They may be obtained by writing to the Office of Special Programs, Office of Vocational and Adult Education, U.S. Department of Education (Room 5600, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202-3579.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Group Applications:

(a) Eligible parties may apply as a group for a grant.

(b) Depending on the program under which a group of eligible parties seeks assistance, the term used to refer to the group may vary. The list that follows contains some of the terms used to identify a group of eligible parties:

(1) Combination of institutions of higher education.

(2) Consortium.

(3) Joint applicants.

(4) Cooperative arrangements.

(c) If a group of eligible parties applies for a grant, the members of the group shall either—

(1) Designate one member of the group to apply for the grant; or

(2) Establish a separate, eligible legal entity to apply for the grant.

(d) The members of the group shall enter into an agreement that—

(1) Details the activities that each member of the group plans to perform; and

(2) Binds each member of the group to every statement and assurance made by the applicant in the application.

(e) The applicant shall submit the agreement with its applications.

(EDGAR) 34 CFR 75.127 and 75.128 (formerly 45 CFR 100a.127 and 100a.128).

(20 U.S.C. 1221e-3(a)(1))

Special Procedures: An applicant shall submit a copy of the application directly to the Bureau of Indian Affairs and the State Board for Vocational Education at the same time it submits an application to the Department of Education. The copy of the application to be sent to the Bureau of Indian Affairs should be sent to the following address: Director of Education Programs, Bureau of Indian Affairs, Main Interior Building, room 3510, 1951 Constitution Avenue, NW., Washington, D.C. 20245. A directory of the State Boards for Vocational Education in all States is included with the application package.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Program for Indian Tribes and Indian Organizations 34 CFR Part 408, §§ 408.201-408.214 (formerly 45 CFR Part 105, §§ 105.201-105.214); and

(b) The following provisions of the Education Department General Administrative Regulations (EDGAR), 34 CFR Part 75, (formerly 45 CFR Part 100a) except §§ 72.200-75.206 "Selection of New Projects," and 34 CFR Part 77 (formerly 45 CFR Part 100c).

Further Information: For further information contact Earl J. Dodrill or Harvey Thiel, Program Officers, Program

for Indian Tribes and Indian Organizations, Department of Education (Room 5600, Regional Office Building 3), 400 Maryland Avenue, SW, Washington, D.C. 20202-3579. Telephone (202) 245-8190.

(20 U.S.C. 2303)

84.017—International Research and Studies Program

Closing Date: January 11, 1982.

Applications are invited for new and/or noncompeting continuation projects under the International Research and Studies Program.

Authority for this program is contained in Section 605 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1125)

This program issues awards to qualified institutions, organizations, and individuals.

The purpose of the awards is to assist researchers (1) to conduct studies and surveys to determine the need for increased or improved instruction in modern foreign languages and related fields; (2) to conduct research on methods of teaching foreign languages; (3) to develop testing procedures to evaluate the foreign language competence of students; and (4) to develop specialized materials for use in training and evaluating students and teachers.

Closing Date for Transmittal of Applications:

1. An application for a new grant must be mailed or hand delivered by January 11, 1982.

2. An application for a noncompeting continuation grant, to be assured of consideration for funding, must be mailed or hand delivered by January 11, 1982. If the application is late, the Department of Education may lack sufficient time to review it and may decline to accept it.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.017, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant for a new grant will be notified that its application will not be considered.

Application Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application for a new grant that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Information regarding activities supported by this program and the selection criteria for new grants are set forth in the program regulations, 34 CFR Parts 655 and 660, which were published in the Federal Register on December 31, 1980, 45 FR 86872 and 86882. Information regarding the continuation of non-competing continuation awards are set forth in EDGAR, 34 CFR 75.253.

Funding Priorities: Section 660.34 of the regulations governing the administration of this program provides for the establishment of priorities by the Secretary in any given year. This year the Secretary has not chosen to establish formal priorities. However, projects are encouraged in the following categories:

(1) Research which will lead to (a) improved methods of evaluating foreign language proficiency, with an emphasis on oral proficiency, and (b) appropriate test and measurement procedures and specialized testing materials;

(2) Studies and surveys, including conferences, to assess the state of the art of foreign language, foreign area, and related studies, in order to determine the need for new emphases, and to identify needs for specialized materials;

(3) Research which will increase understanding about how foreign

languages are learned and which shows promise of immediate application to improved language teaching methods;

(4) The preparation of specialized instructional materials for (a) modern foreign languages which are not widely taught in the United States and for which there is only a limited commercial market, and (b) foreign area and international studies concerned with the non-Western world (such as general reference works, specialized research tools, syllabi, or basic materials—particularly those for use in the elementary and secondary schools and undergraduate college programs).

In preparing applications under (4)(a) applicants may wish to consult the recommendations on language study needs resulting from national conferences (such as the Conference on Uncommonly-taught Languages held in Columbia, Maryland, from September 29 to October 2, 1974, which produced the report, *Materials Development Needs in the Uncommonly-taught Languages: Priorities for the Seventies*, published by the Center for Applied Linguistics, 3520 Project Street, NW., Washington, D.C. 20007. Applicants may also wish to consult with the Department of Education in regard to any findings of conferences of languages specialists representing a geographic or linguistic world area.

(5) Survey, study, and materials development projects which contribute to the effectiveness of the International Education programs under Title VI of the Higher Education Act of 1965, as amended.

Available Funds: Under the President's revised budget which was sent to the Congress in September, 1981 it is estimated that approximately \$840,000 will be available for the International Research and Studies program in FY 1982.

It is estimated that these funds could support 17 new projects and 4 continuing projects.

The anticipated award for new projects is estimated at an average cost of \$40,000 each. (Projects which exceed eighteen months should be planned and budgeted in yearly phases.)

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available. They may be obtained by writing to the Research Branch, International Education Programs, U.S. Department of Education, (Room 3913,

ROB-3), 400 Maryland Avenue, SW., Washington, D.C. 20202-3323.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 10 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the International Research and Studies program (34 CFR Parts 655 and 660) which were published in the Federal Register on December 31, 1980, 45 FR 86872; and

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77. These parts were previously codified as 45 CFR Part 100a and 45 CFR Part 100c respectively.

Further Information: For further information contact Julia A. Petrov, Research Branch, International Education Program, U.S. Department of Education (Room 3913, ROB-3), 400 Maryland Avenue, SW., Washington, D.C. 20202-3223. Telephone: (202) 245-2761.

(20 U.S.C. 1122)

84.087—Indian Education—Fellowships for Indian Students

Closing Date: January 11, 1982.

Applications are invited for noncompeting continuation fellowships under the Indian Education Act—Indian Fellowship Program. This program authorizes the award of fellowships to Indian students.

Authority for this program is contained in Section 423 of the Indian Education Act, as amended (20 U.S.C. 3385b).

The purpose of the awards is to enable Indian students to pursue courses of study leading to: (a) graduate level degrees in medicine, law education, and related fields, and (b) graduate or undergraduate degrees in engineering, business administration, natural resources, and related fields.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, fellows should mail or hand deliver their applications by January 11, 1982.

If an application is late, the Department of Education may lack sufficient time to review it with other noncompeting applications and may decline to consider it.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.087, Washington, D.C. 20202-3561.

An applicant should show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

Fellows should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, a fellow should check with his or her local post office. A fellow is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: The maximum stipend allowed for a graduate fellow will be \$600 per month. The maximum stipend allowed for an undergraduate fellow will be \$375 per month. A maximum allowance of \$90 per month will be allowed for each dependent. Financial need and the applicant's resources will be taken into account in determining the amount of the fellowship award. The amount of the award will be determined by income of the student, the income of the student's spouse, family contributions, other financial aid including grant awards being received, and the cost of living of the area of the institution being attended.

These estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant.

Application Forms: Application forms and program information packages may

be obtained by writing to the Office of Indian Education, U.S. Department of Education, Room 2177 400 Maryland Avenue, SW., Washington, D.C. 20202-6267.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program are the regulations governing the Indian Fellowship Program, 34 CFR Part 263, (previously 45 CFR Part 187) published on May 21, 1980 at 45 FR 34180.

Further Information: For further information, contact Louis J. McGuinness, Acting Special Assistant for Indian Education Programs, U.S. Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202-6267. Telephone (202) 245-8020.

(20 U.S.C. 3385b)

84.003A—Bilingual Education Act—Desegregation Support Program

Closing Date: January 15, 1982.

Applications are invited for new projects under the Bilingual Education Act—Desegregation Support Program.

Authority for this program is contained in Section 751 of the Elementary and Secondary Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3261)

This program issues awards to eligible local educational agencies that are implementing qualifying desegregation plans under Section 606 of the Emergency School Aid Act (as amended by Pub. L. 95-561) and to nonprofit private organizations that have received requests for curriculum development from eligible local educational agencies.

The purpose of the awards is to develop curricula for, or to implement, instructional programs of bilingual-bicultural education to meet the special educational needs of minority group children who, because of language barriers and cultural differences, do not have equal educational opportunity. The curricula developed and the instructional programs implemented under this program must be designed to complement the local educational agency's qualifying desegregation plan.

Closing Date for Transmittal of Applications: An application must be mailed or hand delivered by January 15, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003A, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Final regulations governing the desegregation Support Program were published in the July 21, 1981 issue of the Federal Register (46 FR 37594). An applicant should review the regulations, particularly the appropriate selection criteria before preparing its application.

The maximum project period which an applicant may propose is three years.

To be eligible for assistance, an applicant must meet the requirements found in the regulations applicable to this program, including the following:

- (1) An applicant must establish a project committee to assist in the development of its application. Requirements pertaining to project

committees are contained in the program regulations (34 CFR 520.20).

(2) An applicant must provide a copy of its application to the appropriate State education agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in the Bilingual Education General Provisions (34 CFR 500.20).

(3) A local educational agency, applying as a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations (34 CFR 75.139-75.141). The local educational agency must complete the certification form in the application package.

(4) Joint applicants proposing to develop curricula for an instructional package.

(5) An applicant proposing to develop curricula for an instructional program of bilingual-bicultural education must submit evidence that it has received a request from one or more eligible local educational agencies to develop bilingual-bicultural curriculum under this program.

(6) An applicant proposing to conduct an instructional program of bilingual-bicultural education must provide for the participation in its project of eligible minority group children enrolled in nonprofit private schools that are participating in the qualifying desegregation plan, if the educational needs, language(s), and grade level(s) of those children are of a similar type private school participation are contained in the program regulations (34 CFR 520.21).

(7) An applicant proposing to implement an instructional program of bilingual-bicultural education must include in its application plans for training activities that provide, as necessary, training for teachers, principals, and other education personnel who work with minority group children. Applicants should refer to the Bilingual Education General Provisions (34 CFR 500.41) for allowable rates and costs for trainees participating in the training programs.

Available Funds: It is expected that approximately \$1,768,000 will be available for new grants under the Desegregation Support Program in fiscal year 1982.

It is estimated that these funds could support 6 projects. The anticipated award for most projects is between \$100,000 and \$300,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Allocation of Funds. The Secretary holds separate competitions for applications proposing to develop bilingual-bicultural curriculum under 34 CFR 520.10(a) and for applications proposing to implement instructional programs of bilingual-bicultural education under 34 CFR 520.10(b).

For fiscal year 1982, the Secretary anticipates that funds will be allocated to those competitions in the amounts stated below. However, these amounts are only estimates and do not bind the Department of Education. The Secretary may reallocate funds if too few applications of high quality are received under a competition.

34 CFR 520.10(a). Bilingual-bicultural curriculum development projects: \$300,000.

34 CFR 520.10(b). Implementation of instructional programs of bilingual-bicultural education: \$2,500,000.

Application Forms: Application packages are expected to be ready for mailing in November 1981. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW, Washington, D.C. 20202-5401.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. The Secretary strongly urges that the narrative portion of the application not exceed 30 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Bilingual Desegregation Support Program, 34 CFR Parts 500 and 520 (previously 45 CFR Parts 123 and 123g).

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

(3) The regulations governing Emergency School Aid Act Programs, 34 CFR Part 280 (previously 45 CFR Part 185) published May 16, 1980 at 45 FR 32586.

Further Information: For further information, contact Ms. Donna

Arrington, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 508, Reporters Building) 400 Maryland Avenue, SW, Washington, D.C. 20202-5401. Telephone (202) 472-3520.

(20 U.S.C. 3261)

84.003A Bilingual Education Act—Desegregation Support Program

Closing Date: January 15, 1982.

Requests are invited for Transmittal of Noncompeting Continuations under the Bilingual Education Act—Desegregation Support Program.

Authority for this program is contained in Section 751 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

Current recipients of grants under this program which have an approved project period in excess of one year may request continuation of their present projects.

The purpose of the awards is to develop curricula for, or to implement, instructional programs of bilingual-bicultural education to meet the special educational needs of minority group children who, because of language barriers and cultural differences, do not have equal educational opportunity. The curricula developed and the instructional programs implemented under this program must be designed to complement the local educational agency's qualifying desegregation plan.

Closing Date for Transmittal of Requests: To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 15, 1982.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests delivered by Mail: A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003A, Washington, D.C. 20202-3561.

A grantee must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

A grantee should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, a grantee should check with its local post office.

A grantee is encouraged to use registered or at least first class mail.

Requests Delivered by Hand: A request that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: It is expected that approximately \$5,800,000 will be available for 20 noncompeting continuations under the Desegregation Support Program in fiscal year 1982.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grants unless that amount is otherwise specified by statute or regulations.

Request Forms: Request packages are expected to be ready for mailing in November 1981. They will be mailed to each current recipient of a multi-year award. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW, Washington, D.C. 20202-5401.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the request package. The Secretary urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the program 34 CFR Parts 500 and 520 (previously 45 CFR Parts 123 and 123), published July 21, 1981 in 46 FR 37594.

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

(3) The regulations governing Emergency School Aid Act Programs, 34 CFR Part 280 (previously 45 CFR Part

180) published on May 16, 1980 in 45 FR 32586.

Further Information: For further information contact Ms. Donna Arrington, Office of Bilingual Education and Minority Language Affairs, U.S. Department of Education (Room 508, Reporters Building), 400 Maryland Avenue, SW, Washington, D.C. 20202-5401. Telephone (202) 472-3520.

(20 U.S.C. 3261)

84.003C—Bilingual Education Act—Basic Projects in Bilingual Education Program

Closing Date: January 15, 1982.

Requests are invited for noncompeting continuation awards under the Bilingual Education Act—Basic Projects in Bilingual Education Program.

Authority for this program is contained in Sections 703-722 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 3223-3232)

Current recipients of grants under this program which have an approved project period in excess of one year may request continuation of their present projects.

The purpose of the awards is to establish, operate, or improve programs of bilingual education to assist children of limited English proficiency and to build the capacity of grantees to continue those programs when Federal funding is reduced or no longer available.

Closing Date for Transmittal of Requests: To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 15, 1982.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for non-competing continuations and may decline to accept it.

Requests Delivered by Mail: A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003C, Washington, D.C. 20202-3561.

A grantee should show proof of mailing, consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

A grantee should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, a grantee should check with its local post office.

Grantees are encouraged to use registered or at least first class mail.

Requests Delivered by Hand: A request that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW, Washington, D.C.

The Application Control Center will accept a hand-delivered request between 8 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: It is expected that approximately \$48,000,000 will be available for 303 noncompeting continuation grants under the Basic Projects in Bilingual Education Program in fiscal year 1982.

Request Forms: Request packages are expected to be ready for mailing in November 1981. They will be mailed to each current recipient of a multi-year award. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Reporters Building, Room 421), 400 Maryland Avenue, SW, Washington, D.C. 20202-5401.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the request package. The Secretary urges that grantees not submit information that is not requested.

Applicable Regulations: The regulations applicable to this program include the following:

(1) The regulations governing the Basic Projects in Bilingual Education Program, 34 CFR Parts 500 and 501 (previously 45 CFR Parts 123 and 123a).

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Ms. Cora Preston, the Basic Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Reporters Building, Room 421), 400 Maryland Avenue, SW, Washington,

D.C. 20202-5401. Telephone (202) 472-3520.

(20 U.S.C. 3223-3232)

84.003G—Bilingual Education Act—Support Service Program: Evaluation, Dissemination, and Assessment Centers

Closing Date: January 15, 1982.

Requests are invited for noncompeting continuations under the Bilingual Education Act—Support Services Projects Program: Evaluation, Dissemination, and Assessment Centers (EDACs).

Authority for this program is contained in Section 721 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3231)

Current recipients of grants under this program which have an approved project period in excess of one year, may request continuation of their present projects.

The purpose of the awards is to provide services to programs of bilingual education and bilingual education training programs within designated service areas for the evaluation, dissemination, and assessment of bilingual education materials.

Closing Date for Transmittal of Requests: To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 15, 1982.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail: A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003G, Washington, D.C. 20202-3561.

A grantee should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark,

or (2) a mail receipt that is not dated by the U.S. Postal Service.

A grantee should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, a grantee should check with its local post office.

Grantees are encouraged to use registered or at least first class mail.

Requests Delivered by Hand: A request that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW, Washington, D.C.

The Application Control Center will accept an hand-delivered requests between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: It is expected that approximately \$2,500,000 will be available for 3 noncompeting continuation grants under the Support Services Projects Program: EDACs in fiscal year 1982.

Application Forms: Request packages are expected to be ready for mailing by November 1981. They will be mailed to the eligible grantee for a noncompeting continuation. A copy of the request package may be obtained by writing to the Office of Biligual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, (Room 421, Reporters Building) 400 Maryland Avenue, S.W., Washington, D.C. 20202-5401.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that applications not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Support Service Projects Program, 34 CFR Parts 500 and 505 (previously 45 CFR Parts 123 and 123d).

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contract Ms. Barabara Wells, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202-5401., Telephone (202) 245-9061.

(20 U.S.C 3231)

84.003L—Bilingual Education Act—Materials Development Projects Program

Closing Date: January 15, 1982.

Requests are invited for noncompeting continuation projects under the Bilingual Education Act—Materials Development Projects Program.

Authority for this program is contained in Section 721 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C 3231)

Current recipients of grants under this program which have an approved project period in excess of one year may request continuation of their present projects.

The purpose of the awards is to develop instructional and testing material for use in programs of bilingual education and bilingual education training programs.

Closing Date for Transmittal of Requests: To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 15, 1982.

If the request is late, the Department of Education may lack sufficient time to reveiw it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail: A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003L, Washington, D.C. 20202-3561.

A grantee should show proof of mailing, consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipped label, invoice, or receipt from a commerical carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Post Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

A grantee should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, grantees should check with its local post office.

Grantees are encouraged to use registered or at least first class mail.

Requests Delivered by Hand: A request that is hand delivery must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered request between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: It is expected that approximately \$3,000,000 will be available for 5 noncompeting continuation grants under the Materials Development Projects Program in fiscal year 1982.

Request Forms: Request packages are expected to be ready for mailing in November 1981. They will be mailed to each current recipient of a multi-year award. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the request package. The Secretary urges that grantees not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Materials Development Projects Program, 34 CFR Parts 500 and 505 (previously 45 CFR Parts 123 and 123i).

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Ms. Barbara Wells, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401 Telephone (202) 245-9061.

(20 U.S.C. 3231)

84.003T—Bilingual Education Act—Demonstration Projects Program

Closing Date: January 15, 1982.

Requests are invited for noncompeting continuations under the Bilingual Education Act—Demonstration Projects Program.

Authority for this program is contained in Sections 703-722 of the Elementary and Secondary Education Act of 1965, as amended by the

Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3223-3232)

Current recipients of grants under this program which have an approved project period in excess of one year may request continuation of their present projects.

The purpose of the awards is to demonstrate exemplary approaches to providing programs of bilingual education and to building the capacity of grantees to continue those programs when Federal funding is reduced or no longer available.

Closing Date for Transmittal of Requests: To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 15, 1982.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail: A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003T, Washington D.C. 20202-3561.

A grantee should show proof of mailing, consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

A grantee should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, a grantee should check with its local post office.

Grantees are encouraged to use registered or at least first class mail.

Requests Delivered by Hand: A request that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered request between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except

Saturdays, Sundays, and Federal holidays.

Available Funds: It is expected that approximately \$8,100,000 will be available for 54 noncompeting continuation grants under the Demonstration Projects Program in fiscal year 1982.

Request Forms: Request packages are expected to be ready for mailing in November 1981. They will be mailed to each current recipient of a multi-year award. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the request package. The Secretary urges that grantees not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) The regulations governing the Demonstration Projects Program, 34 CFR Parts 500 and 502 (previously 45 CFR Parts 123 and 123b).

(b) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Mr. Luis Catarineau, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401. Telephone (202) 245-2595.

(20 U.S.C. 3223-3232)

84.003H—Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance Program

Closing Date: January 25, 1982.

Applications are invited for new projects under the Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance Program.

Authority for this program is contained in Section 721 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3231)

This program issues awards to State educational agencies (SEAs) in States where programs of bilingual education

assisted under the Bilingual Education Act operated during the preceding fiscal year.

The purpose of the awards is to assist SEAs in the coordination of technical assistance to programs of bilingual education assisted under the Bilingual Education Act within their States.

Closing Date for Transmittal of

Applications: An application must be mailed or hand delivered by January 25, 1982.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003H, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Final regulations governing the State Educational Agency Projects for Coordinating Technical Assistance Program were published in the April 4, 1980 issue of the Federal Register (45 FR 23208). An applicant should review the

regulations, particularly the selection criteria in 34 CFR 503.31, before preparing its application.

The maximum project period which an SEA may propose is five years. An applicant which proposes a project period of more than one year must justify the need for the proposed project period.

Available Funds: It is expected that approximately \$440,000 will be available for State Educational Agency Projects for Coordinating Technical Assistance Program in fiscal year 1982.

An award may not exceed five percent of the amount paid under Part A of the Bilingual Education Act to local educational agencies in the State in fiscal year 1981.

Application Forms: Application packages are expected to be ready for mailing in November 1981. They will be mailed to each eligible State Educational Agency. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202-5401.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information application package. The Secretary strongly urges that the narrative portion of the application not exceed 50 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the State Educational Agency Projects for Coordinating Technical Assistance Program, 34 CFR Parts 501 and 503 (previously 45 CFR Parts 123 and 123c).

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Mr. Charles Miller, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202-5401. Telephone (202) 245-2961.

(20 U.S.C. 3231)

84.003H—Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance Program

Closing Date: January 25, 1982.

Requests are invited to noncompeting continuations under the Bilingual Education Act—State Educational Agency Projects for Coordinating Technical Assistance Program.

Authority for this program is contained in Section 721 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3231)

Current recipients of grants under this program which have an approved project period in excess of one year may request continuation of their present projects.

The purpose of the awards is to assist State educational agencies in the coordination of technical assistance to programs of bilingual education assisted under the Bilingual Education Act within their States.

Closing Date for Transmittal of Requests: To be assured of consideration for funding, requests for noncompeting continuation awards should be mailed or hand delivered by January 25, 1982.

If the request is late, the Department of Education may lack sufficient time to review it with other requests for noncompeting continuations and may decline to accept it.

Requests Delivered by Mail: A request sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003H, Washington, D.C. 20202-3561.

A grantee should show proof of mailing, consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

A grantee should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, a grantee should check with its local post office.

Grantees are encouraged to use registered or at least first class mail.

Requests Delivered by Hand: A request that is hand delivered must be

taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered request between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available Funds: It is expected that approximately \$4,000,000 will be available for noncompeting continuation grants under the State Educational Agency Projects for Coordinating Technical Assistance Program in fiscal year 1981.

An award may not exceed five percent of the amount paid under Part A of the Bilingual Education Act to local educational agencies in the State in fiscal year 1981.

Request Forms: Request packages are expected to be ready for mailing in November 1981. They will be mailed to each current recipient of a multi-year award. A copy of the request package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue SW., Washington, D.C. 20202-5401.

Requests must be prepared and submitted in accordance with the regulations, instructions, and forms included in the request package. The Secretary urges that grantees not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the State Educational Agency Projects for Coordinating Technical Assistance Program, 34 CFR Parts 500 and 503 (previously 45 CFR Parts 123 and 123c).

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Mr. Charles Miller, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue SW., Washington, D.C. 20202-5401. Telephone (202) 245-2961.

(20 U.S.C. 3231)

84.003P—Bilingual Education Act—School of Education Projects Program

Closing Date: January 25, 1982.

Applications are invited for new projects under the Bilingual Education

Act—School of Education Projects Program.

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3233)

This program issues awards to institutions of higher education which have schools or departments of education or bilingual education training programs and which apply after consultation with, or jointly with, one or more local educational agencies or with a State educational agency.

The purpose of the awards is to assist institutions of higher education in developing or expanding their capability to provide degree-granting bilingual education training programs.

Closing Date for Transmittal of Applications: An application must be mailed or hand delivered by January 25, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003P, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Final regulations governing the School of Education Projects Program were published in the April 4, 1980 issue of the Federal Register (45 FR 23208). An applicant should review the final regulations, particularly the selection criteria in 34 CFR 514.30, before preparing its applications.

The Secretary approves project periods of three years only for School of Education projects.

To be eligible for assistance, an applicant must meet the requirements found in regulations applicable to this program, including the following:

(1) A local educational agency, applying as either a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding the open meeting are contained in the Education Department General Administrative Regulations (34 CFR 75.139-75.141). The local educational agency must complete the certification form in the application package. This requirement must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

(2) Joint applicants must complete a special certification form in the application package.

(3) An applicant must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20 of the regulations.

Available Funds: It is expected that approximately \$30,000 will be available for new grants under the School of Education Projects Program in fiscal year 1982.

It is estimated that these funds could support 1 project.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Priorities for Funding: The School of Education Projects regulations (34 CFR 514.11) permit the Secretary to establish

priorities among the activities described in 34 CFR 514.10. For fiscal year 1982, the Secretary invites applications that meet the following priority:

34 CFR 514.10(b)—Priority for planning and developing specialized programs in bilingual education in areas such as special education, reading, research and evaluation, counseling, early childhood education, and curriculum and instruction.

All applications for the School of Education projects will be reviewed together. An application that meets the priority does not receive competitive or absolute preference over applications that do not meet the priority.

Application Forms: Application packages are expected to be ready for mailing in November 1981. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building) 400 Maryland Avenue, SW., Washington, D.C. 20202-5401.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information application package. The Secretary strongly urges that the narrative portion of the application not exceed 20 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the School of Education Projects Program, 34 CFR Parts 500 and 514 (previously 45 CFR Parts 123 and 123f).

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Ms. Paquita Biascochea, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202-5401. Telephone (202) 245-2595.

(20 U.S.C. 3233)

84.005—College Library Resources Program

Closing Date: January 29, 1982.

Applications are invited for grants under the College Library Resources Program for fiscal year 1982.

Authority for this program is contained in Part A of Title II of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1021 et seq.)

Under this program the Secretary may award a grant to an institution of higher education, a branch of an institution of higher education, a combination of these institutions, or any other public and private nonprofit library institutions whose primary function is to provide library and information services to institutions of higher education on a formal cooperative basis.

The purpose of these grants is to assist institutions of higher education and other public and private nonprofit library institutions to improve the quality of their library resources, including law library resources, and to encourage libraries of institutions of higher education to share their resources through the establishment and maintenance of networks.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by January 29, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.005, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Applications for individual branch campuses should be sent in separate envelopes and not combined.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An Application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Grant applications may not exceed \$10,000. To be considered for a grant, applicant institutions must be certified as eligible by February 26, 1982 by the Department of Education's Division of Eligibility and Agency Evaluation and must meet the maintenance-of-effort requirements for library materials, as set forth in the regulations.

Available Funds: It is expected that approximately \$2,000,000 will be available for the College Library Resources Program in fiscal year 1982.

It is expected that approximately 2,500 grants will be made. All of these will be new awards; no funds are reserved for continuation awards.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to all fiscal year 1981 applicants.

Application forms may also be obtained by writing to the Library Education, Research and Resources Branch, Attn. II-A, U.S. Department of Education (Room 3622, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202-3320.

Applications must be prepared and submitted in accordance with the instructions and forms included in the program package. A narrative is required to explain a request of the waiver of the maintenance-of-effort requirement or to describe networking activities. The Secretary urges that all narratives be as brief as possible.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the College Library Resources Program, 34 CFR Part 773 (formerly 45 CFR Part 131); and

(b) Education Department General Administrative Regulations (EDGAR) 34

CFR Parts 75 and 77 (formerly 45 CFR Parts 100a and 100c).

Further Information: For further information contact Frank A. Stevens, Chief, Library Education, Research and Resources Branch, Division of Library Programs, Office of Libraries and Learning Technologies, U.S. Department of Education (Room 3622, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202-3320. Telephone (202) 245-9530.

(20 U.S.C. 1020)

84.003F—Bilingual Education Act—Fellowship Program

Closing Date: February 2, 1982.

Applications are invited for continuing participation in the Fellowship program under the Bilingual Education Act.

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 3223)

Eligible applicants are institutions of higher education with programs of study that have been previously approved by the Secretary for a period in excess of one year. The Secretary awards fellowships to individuals nominated by the approved institutions of higher education.

The purpose of this program is to provide continued financial assistance to full-time graduate students who are preparing to become trainers of teachers for bilingual education.

Closing Date for Transmittal of Applications: To be assured of consideration for participation, an application should be mailed or hand delivered by February 2, 1982.

If the application is late, the Department of Education may lack sufficient time to review it with other applications for continuing participation and may decline to accept it.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003F, Washington, D.C. 20202-3561.

An applicant should show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Program Information: Each institution applying for continuing participation in the Fellowship Program is asked to submit with its application a ranked list of nominees and alternates for fellowships. The applicant should develop a ranked list of nominees and alternates for each approved language, using the nomination form included in the continuation application package. The Secretary will make final selections from these lists. A nominee who is not initially selected as a recipient may be designated as an alternate and may subsequently be selected if a vacancy becomes available.

An individual interested in receiving a fellowship must apply directly to an approved institution of higher education. A fellowship is awarded for only one year at a time. A new application must be filed each year at the institution in which the individual wishes to enroll. A list of participating institutions may be obtained by calling or writing the Office of Bilingual Education and Minority Languages Affairs contact person.

In accordance with the program regulations, individuals who are selected will be required to sign a contract by which they will agree either to work for an equivalent period of time in an activity related to training bilingual education personnel or to repay the assistance received. Additional information on the service requirement is contained in the program regulations.

Available Funds: It is expected that approximately \$2,802,000 will be available for fellowships at continuation

institutions under the Fellowship Program in fiscal year 1982.

It is estimated that these funds could support 330 fellowships.

However, these estimates do not bind the Department of Education to a specific number of fellowships unless that number is otherwise specified by statute or regulations.

Application Forms: Application packages are expected to be ready for mailing in November 1981. They will be mailed to each institution of higher education with programs of study that have been approved for a period in excess of one year. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Fellowship Program, 34 CFR Parts 500 and 515 (previously 45 CFR Parts 123 and 123h).

(2) The regulations contained in 34 CFR 75.51 and 77.1-77.2 of the Education Department General Administrative Regulations (EDGAR) (previously 45 CFR 100a.51 and 100c.1-100c.2).

Further Information: For further information contact Ms. Paquita Biascoechea, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue SW., Washington, D.C. 20202-5401. Telephone (202) 245-2600.

(20 U.S.C. 3233)

84.003J—Bilingual Education Act—Training Projects Program

Closing Date: February 9, 1982.

Applications are invited for new projects under the Bilingual Education Act—Training Projects Program.

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3233)

This program issues awards to local educational agencies; State educational

agencies; and institutions of higher education and nonprofit private organizations which apply after consultation with, or jointly with, one or more local educational agencies or a State educational agency.

The purpose of the awards is to establish, operate, and improve bilingual education training programs for persons who are participating in, or preparing to participate in, programs of bilingual education and bilingual education training programs.

Closing Date for Transmittal of Applications: An application must be mailed or hand delivered by February 9, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003J, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW, Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Regulations governing the Training Projects Program were published in the April 4, 1980 issue

of the Federal Register (45 FR 23208). Amendments to the Training Projects regulations were published on September 2, 1981 at 46 FR 44141. Applicants should review the regulations, particularly the selection criteria in 34 CFR 510.31-510.33, before preparing their applications. An applicant should also refer to 34 CFR 500.41 for the rates for allowable costs for trainees participating in training activities.

The maximum project period which a local educational agency, applying as either a sole or joint applicant, may propose is three years. The maximum project period which an applicant other than a local educational agency may propose is five years. An applicant that proposes a project period of more than one year must justify the need for the proposed project period.

To be eligible for assistance, an applicant must meet the requirements found in regulations applicable to this program, including the following:

- (1) A local educational agency, applying as either a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations, 34 CFR 75.139-75.141 (previously 45 CFR 100a.139-100a.141). The local educational agency must complete the certification form in the application package. This requirement must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

- (2) Joint applicants must complete a special certification form in the application package.

- (3) An applicant must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

Available Funds: It is expected that approximately \$966,000 will be available for new grants under the Training Projects Program in fiscal year 1982.

It is estimated that these funds could support 10 projects.

The anticipated award for each project is between \$50,000 and \$150,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Allocation of Funds: For fiscal year 1982, the Secretary funds only those

applications proposing any combination of the activities described in 34 CFR 510.10 (a), (b), and (c):

Providing training that leads to an undergraduate degree or teaching credential with a specialization in bilingual education; encouraging reform, innovation, and improvement in bilingual education training programs at institutions of higher education; and providing specialized graduate bilingual education degree curricula in areas such as administration and supervision, guidance and counseling, evaluation, and curriculum development.

An application proposing any one or combination of activities described in 34 CFR 510.10 (a), (b), and (c) competes with all other applications submitted under the Training Projects Program.

Application Forms: Application packages are expected to be ready for mailing in November 1981. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Room 421, Reporters Building), 400 Maryland Avenue, SW, Washington, D.C. 20202-5401.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

- (1) The regulations governing the Training Projects Program, 34 CFR Parts 500 and 510 (previously 45 CFR Parts 123 and 123e).

- (2) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Dr. Willie Alire, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401. Telephone (202) 447-9273. (20 U.S.C. 3233)

84.003D—Bilingual Education Act—Basic Projects in Bilingual Education Program

Closing Date: February 9, 1982.

Applications are invited for new projects under the Bilingual Education Act—Basic Projects in Bilingual Education Program.

Authority for this program is contained in Sections 703-722 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3223-3232)

This program issues awards to local educational agencies; institutions of higher education applying jointly with one or more local educational agencies; and elementary or secondary schools operated or funded by the Bureau of Indian Affairs (BIA) for Indian children on a reservation.

The purpose of the awards is to establish, operate, or improve programs of bilingual education to assist children of limited English proficiency and to build the capacity of grantees to continue those programs when Federal funding is reduced or no longer available.

Closing Date for Transmittal of Applications: An application must be mailed or hand delivered by February 9, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003D, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of

Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Final regulations governing the Basic Projects in Bilingual Education Program were published in the April 4, 1980 issue of the *Federal Register* (45 FR 23208). An applicant should review the regulations, particularly the selection criteria in 34 CFR 501.30, before preparing its application.

As stated in 34 CFR 501.31, the Secretary annually establishes a cut-off score, based on review according to the selection criteria in 34 CFR 501.30, which an application must meet to be considered for a grant. The Secretary establishes 60 points as the cut-off score for applications under the Basic Projects in Bilingual Education Program for fiscal year 1982.

The maximum project period which an applicant may propose is three years.

To be eligible for assistance, an applicant must meet the requirements found in the regulations applicable to this program, including the following:

(1) An applicant must establish an advisory council to assist in the development of its application. Requirements pertaining to advisory councils are contained in 34 CFR 501.20.

(2) An applicant must provide for the participation in its project of children enrolled in nonprofit private schools in the area to be served, whose educational needs, language(s), and grade level(s) are of a similar type to those which the project is intended to address. Requirements pertaining to private school participation are contained in 34 CFR 501.21.

(3) An applicant must include adequate auxiliary and supplementary training programs for persons who are participating in, or preparing to participate in, the programs of bilingual education to be supported by the proposed project. Applicants should refer to 34 CFR 500.41 for the rates for allowable costs for trainees participating in the training activities.

(4) A local educational agency, applying as a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained

in the Education Department General Administrative Regulations (34 CFR 75.139-75.141). The local educational agency must complete the certification form in the application package. This requirement must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

(5) Joint applicants must complete a special certification form in the application package.

(6) An applicant must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

An eligible school operated or funded by the Bureau of Indian Affairs (BIA) must submit its application for comment to the Secretary of Interior or his or her designee, using procedures outlined in 34 CFR 500.20(c).

Available Funds: It is expected that approximately \$12,670,000 will be available for new grants under the Basic Projects in Bilingual Education Program in fiscal year 1982.

It is estimated that these funds could support approximately 80 projects.

The anticipated award for most new projects is between \$50,000 and \$175,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grants unless that amount is otherwise specified by statute or regulations.

Application Forms: Application packages are expected to be ready for mailing in November 1981. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW, Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the entire application not exceed 60 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Basic Projects in Bilingual Education

Program, 34 CFR Parts 500 and 501 (previously 45 CFR Parts 123 and 123a).

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Ms. Cora Preston, the Basic Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW, Washington, D.C. 20202-5401. Telephone (202) 472-3520.

(20 U.S.C. 3223-3232)

84.003L—Bilingual Education Act—Support Services Projects Program: Bilingual Education Service Center (BESCs).

Closing Dates: February 9, 1982.

Applications are invited for new projects under the Bilingual Education Act—Support Services Projects Program: Bilingual Education Service Centers (BESCs).

Authority for this program is contained in Sections 721 and 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3231, 3233).

This program issues awards to local educational agencies; State educational agencies; and institutions of higher education and nonprofit private organizations which apply jointly with, or after consultation with, one or more local educational agencies or State educational agencies.

The purpose of the awards is to provide training and other services to programs of bilingual education and bilingual education training programs with designated service areas.

Closing Date for Transmittal of Applications: An application must be mailed or hand delivered by February 9, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the Department of Education, Application Control Center, Attention: 84.003L, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An application should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or a least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between the hours of 8:00 a.m. and 4:30 p.m., (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is delivered will be accepted after 4:30 p.m. on the closing date.

Program Information: Regulations governing the Support Services Projects Program (BESCs) were published in the April 4, 1980 issue of the Federal Register (45 FR 23208). An applicant should review the regulations, particularly the selection criteria in 34 CFR 504.30, before preparing its application.

An applicant under this program may include support for training activities in the project. An applicant should refer to 34 CFR 500.41 for the rates for allowable costs for training activities.

To be eligible for assistance an applicant must meet the requirement in the regulations applicable to this program, including the following:

(1) A local educational agency, applying as either a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding the open meeting are contained in the Educational Department General Administrative Regulations (34 CFR 75.139-75.141). The local educational agency must complete the certificate form in the application package. This requirement must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

(2) Joint applicants must complete a special certification form in the application package.

(3) An applicant must provide copies of its application to the appropriate State educational agencies in the States within its designated service area in advance of submitting the application to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

Available Funds: It is expected that approximately \$1,500,000 will be available for 4 new grants under the Support Services Projects Programs: BESCs in fiscal year 1982.

The anticipated award for each project is approximately \$375,000.

However, this estimate does not bind the U.S. Department of Education to a specific number of grants or the amount of any grant unless that amount is otherwise specified by statute or regulations.

Service Areas: The Support Services Projects (34 CFR 504.14) regulations provides for the designation of service areas for BESCs. For fiscal year 1982, the Secretary invites applications that propose to serve the service areas described in the following paragraphs. A BESC may provide services to all language groups served by programs of bilingual education and bilingual education training programs within the geographic area described.

(1) New York City, and Suffolk and Nassau Counties in New York State.

(2) Florida, Georgia, South Carolina, and North Carolina.

(3) Michigan, Wisconsin, Minnesota, Indiana, Ohio, Kentucky, Illinois, Iowa, and Missouri.

(4) Oklahoma (excluding Native American language groups) and Education Service Center Regions V-XIV, and XVII in Texas.

Only applicants proposing to serve these geographic areas will be considered for a grant.

For fiscal year 1982, the Secretary anticipates making continuation awards to current recipients under this program that have approved project periods in excess of one year. Recipients of fiscal year 1982 continuation awards provide services in service areas that, with the service areas designated above, cover the United States, Puerto Rico, the Virgin Islands, and the Pacific Territories.

Application Forms: Application packages are expected to be ready for mailing in November 1981. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application

package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 50 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Support Services Projects Program, 34 CFR Parts 501 and 504 (previously 45 CFR Parts 123 and 123d).

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Mr. Charles Miller, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401. Telephone (202) 245-2961.

(20 U.S.C. 3231, 3233)

84.003N—Bilingual Education Act—Demonstration Projects Program

Closing Date: February 9, 1982.

Applications are invited for new projects under the Bilingual Education Act—Demonstration Projects Program.

Authority for this program is contained in Sections 703-722 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95-561).

(20 U.S.C. 3223-3232)

This program issues awards to local educational agencies; institutions of higher education applying jointly with one or more local educational agencies; and elementary or secondary schools operated or funded by the Bureau of Indian Affairs (BIA) for Indian children on a reservation.

The purpose of the awards is to demonstrate exemplary approaches to providing programs of bilingual education and to building the capacity of grantees to continue those programs when Federal funding is reduced or no longer available.

Closing Date for Transmittal of Applications: An application must be

mailed or hand delivered by February 9, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003N, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Final regulations governing the Demonstration Projects Program were published in the April 4, 1980 issue of the Federal Register (45 FR 23208). An applicant should review the regulations, particularly the selection criteria in 34 CFR 502.30 and 502.31, before preparing its application.

The maximum project period which an applicant may propose is three years.

To be eligible for assistance, an applicant must meet the requirements found in the regulations applicable to this program, including the following:

(1) An applicant must establish an advisory council to assist in the

development of its application.

Requirements pertaining to advisory councils are contained in 34 CFR 502.20.

(2) An applicant must provide for the participation in its project of children enrolled in nonprofit private schools in the area to be served, whose educational needs, language(s), and grade level(s) are of a similar type to those which the project is intended to address. Requirements pertaining to private school participation are contained in 34 CFR 502.21.

(3) An applicant must include adequate auxiliary and supplementary training programs for persons who are participating in, or preparing to participate in, the programs of bilingual education to be supported by the proposed project. Applicants should refer to 34 CFR 500.41 for the rates for allowable costs for trainees participating in the training programs.

(4) A local educational agency, applying as a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application.

Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations (34 CFR 75.139-75.141). The local educational agency must complete the certification form in the application package. This requirement must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

(5) Joint applicants must complete a special certification form in the application package.

(6) A local educational agency, applying as either a sole or joint applicant, must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

An eligible school operated or funded by the Bureau of Indian Affairs (BIA) must submit its application for comment to the Secretary of Interior or his or her designee, using procedures outlined in 34 CFR 500.20(c) of the regulations.

Available Funds: It is expected that approximately \$900,000 will be available for new grants under the Demonstration Projects Program in fiscal year 1982.

It is estimated that these funds could support 5 projects.

The anticipated award for each new project is between \$50,000 and \$180,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the

amount of any grant unless that amount is otherwise specified by statute or regulations.

Priorities For Funding: The Demonstration Projects Program regulations (34 CFR 502.11) authorizes the Secretary to select priorities from among various target groups and components of a program of bilingual education described in that section. For fiscal year 1982, the Secretary selects the following priorities for the Demonstration Projects Program:

34 CFR 502.11(f)(1)—Priority for projects with exemplary approaches to community or parental involvement.

34 CFR 502.11(f)(2)—Priority for projects with exemplary approaches to curriculum development.

34 CFR 502.11(f)(3)—Priority for projects with exemplary approaches to instructional technology.

The Secretary gives absolute preference to applications that meet the selected priorities. The Secretary anticipates that the funds will be reserved solely for applications submitted under the selected priorities.

The Secretary anticipates that funds will be allocated to the Demonstration Projects Program in the following manner.

Approximately 33 percent of the funds will be set aside for the priority for projects with exemplary approaches to community or parental involvement. An application submitted under this priority competes only with other applications submitted under the priority.

Approximately 33 percent of the funds will be set aside for the priority for projects with exemplary approaches to curriculum development. An application submitted under this priority competes only with other applications submitted under the priority.

Approximately 33 percent of the funds will be set aside for the priority for projects with exemplary approaches to instructional technology. An application submitted under this priority competes only with other applications submitted under the priority.

These allocations are only estimates and do not bind the Department of Education. The Secretary may reallocate funds if too few applications of high quality are received under a priority.

Application Forms: Application packages are expected to be ready for mailing in November 1981. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland

Avenue, SW., Washington, D.C. 20202-5401.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Demonstration Projects Program, 34 CFR Parts 500 and 502 (previously 45 CFR Parts 123 and 123b).

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

Further Information: For further information contact Mr. Luis Catarineau, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, SW., Washington, D.C. 20202-5401 Telephone (202) 245-2595.

(20 U.S.C. 3223-3232)

84.024B—Handicapped Children's Early Education Program

Closing Date: February 10, 1982.

Applications are invited for new outreach projects under the Handicapped Children's Early Education Program.

Authority for this program is contained in section 623 and 624 of the Education of the Handicapped Act. (20 U.S.C. 1423, 1424).

This program supports outreach activities by public agencies and private non-profit organizations which have completed a three-year demonstration grant under the Handicapped Children's Early Education Program Demonstration program. The purpose of this program is to assist other agencies in meeting the early educational needs of handicapped children.

Closing Date for Transmittal of Applications: Applications for awards must be mailed or hand delivered by February 10, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.024B, 400 Maryland Avenue SW., Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: There are expected to be approximately 35 new Outreach projects funded under this program in fiscal year 1982. Funding for previous years for outreach projects has ranged from \$50,000 to \$130,000 with the average award being approximately \$85,000.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Handicapped Children's Early Education Program, Office of Special Education, U.S. Department of Education, 400 Maryland Avenue, SW., (Donohoe Building) Washington, D.C. 20202-4714.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed fifty (50) pages in

length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program (34 CFR Part 309, formerly 45 CFR Part 121d). Amendments to these regulations were published on April 3, 1980 (45 FR 22532) and January 19, 1981 (46 FR 5378). The Department is currently reviewing the selection criteria contained in the January 19, 1981 amendment. If the Department proposes substantial changes in the selection criteria, the closing date will be extended; and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Part 75 and 77, formerly 45 CFR Parts 100a and 100c) (45 FR 22494-22631; April 3, 1980). Amendments to EDGAR were published on December 22, 1980 (45 FR 84058-84060) and January 14, 1981 (45 FR 3205-3206).

Further Information: For further information contact Ms. Jane DeWeerd, Handicapped Children's Early Education Program, Office of Special Education, U.S. Department of Education, 400 Maryland Avenue, S.W., (Donohoe Building), Washington, D.C. 20202-4714. Telephone (202) 245-9722.

(20 U.S.C. 1423, 1424)

84.087—Indian Education—Fellowships for Indian Students

Closing Date: February 16, 1982.

Applications are invited for new fellowships under the Indian Education Act—Indian Fellowship Program. This program authorizes the award of fellowships to Indian students.

Authority for this program is contained in Section 423 of the Indian Education Act, as amended (20 U.S.C. 3385b).

The purpose of the awards is to enable Indian students to pursue courses of study leading to: (a) Graduate level degrees in medicine, law, education, and related fields, and (b) graduate or undergraduate degrees in engineering, business administration, natural resources, and related fields.

The Indian Fellowship Program is designed to provide financial assistance to Indian students so that they will be able to pursue as full time students the course of study that they have selected for their future careers.

Closing Date for Transmittal of Applications. An application for a fellowship must be mailed or hand delivered by February 16, 1982.

Applications Delivered by Mail: An application sent by mail must be

addressed to the U.S. Department of Education, Application Control Center, Attention: 84.087, Washington, D.C. 20202-3561.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipped label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicant should check with its local post office. An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An applicant that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. 20202-3561.

The Application Control Center will accept an hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: It is estimated that there will be \$1,320,000 available, of which approximately \$760,400 will support 100 non-competing continuation fellows. That will leave approximately \$559,600 to support new fellows under this announcement.

Last year (fiscal year 1981), the appropriation for this program was \$1,500,000. Of that amount, \$549,982 was awarded to 71 of the 625 applicants for new fellowships.

The maximum stipend allowed for a graduate fellow will be \$600 per month. The maximum stipend allowed for an undergraduate fellow will be \$375 per month. A maximum allowance of \$90 per month will be allowed for each dependent. Financial need and the applicant's resources will be taken into

account in determining the amount of the fellowship award. The amount of the award will be determined by income of the student, the income of the student's spouse, family contributions, other financial aid including grant awards being received, and the cost of living of the area of the institution being attended.

These estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant.

Application Forms: Application forms and program information packages are expected to be ready for distribution by November 16, 1981. They may be obtained by writing to the Indian Education Programs, U.S. Department of Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202-3561.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package.

Applicable Regulations: Regulations applicable to this program are the regulations governing the Indian Fellowship Program, 34 CFR Part 263, (previously 45 CFR Part 187) published on May 21, 1980 at 45 FR 34180.

Further Information: For further information, contact Louis J. McGuinness, Acting Special Assistant for Indian Education Programs, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202-6267. Telephone: (202) 245-8020.

(20 U.S.C. 3385b)

84.141—Grants for Special Educational Programs for Students Whose Families are Engaged in Migrant and Other Seasonal Farmwork—High School Equivalency Program

Closing Date: February 19, 1982.

Applications are invited for new grants under the High School Equivalency Program (HEP) to provide academic and supporting services and financial assistance to students who are engaged, or whose families are engaged, in migrant and other seasonal farmwork.

The authority for HEP is contained in Section 418A of Title IV of the Higher Education Act (HEA), as amended by Pub. L. 96-374 (20 U.S.C. 1070d-2).

Eligible applicants are institutions of higher education (IHEs) and other public or nonprofit private agencies in cooperation with IHEs.

The purpose of HEP is to provide grants to IHEs and other agencies, in cooperation with IHEs, to design and implement projects of academic and

supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the secondary education level.

Closing Date for Transmittal of Applications: An applicant must mail or hand deliver its application for a grant to the U.S. Department of Education by February 19, 1982.

Applications Delivered by Mail: An applicant that sends its application by mail must address its application to the U.S. Department of Education, Application Control Center, Attention: 84.141, Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an applicant sends its application through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

The Secretary encourages an applicant to use registered or, at least, first class mail. The Secretary notifies a late applicant that its application will not be considered.

Applications Delivered by Hand: An applicant that hand delivers its application must take the application to the U.S. Department of Education, Application Control Center, Regional Office Building 3, Room 5673, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

The Application Control Center does not accept an application that is hand delivered after 4:30 p.m. on the closing date.

Program Information: The Secretary awards HEP grants to IHEs and other agencies, in cooperation with IHEs, for projects of academic and supporting

services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the secondary education level.

The Secretary makes these grants to IHEs and other agencies, in cooperation with IHEs, to assist migrant and seasonal farmworker "drop-out" students in obtaining the equivalent of a secondary school diploma and subsequently gaining employment or being admitted to an IHE or other postsecondary education or training.

Available Funds: The Secretary estimates that there will be \$5.5 million available for FY 1982 grants. The Secretary estimates that these funds will support 13-18 projects with grants funded between \$100,000 and \$400,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations. An applicant may propose a project of from one to three years. However, the continued funding for projects approved for more than one year is subject to the availability and amount of a Congressional appropriation.

Application Forms: A prospective applicant may obtain application forms and instructions by writing to Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (ROB-3, Room 3608), Washington, D.C. 20202-3303.

An applicant must prepare and submit its application in accordance with the regulations, instructions, and forms included in the grant application package.

The Secretary strongly urges that the narrative portion of an application not exceed 30 pages. The Secretary also urges that an applicant not submit information that is not requested.

Special Procedures: An applicant is subject to the State and areawide clearinghouse review procedures under OMB Circular A-95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A-95 requires the applicant to give the clearinghouse(s) sufficient time for review, consultation, and comments on its application.

In its application, an applicant must provide—

(1) The comments of each clearinghouse that commented on its application; or

(2) A statement that the applicant used the procedures of Part I of OMB Circular A-95 but did not receive any clearinghouse comments.

Applicable Regulations: The regulations that apply to HEP include the following:

(1) The Migrant Education High School Equivalency Program and College Assistance Migrant Program Regulations (34 CFR Part 206) that were published in the Federal Register on July 6, 1981, as final regulations.

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

(3) The Grants Administration Regulations, 34 CFR Part 74 (previously 45 CFR Part 74).

Further Information: For further information, contact Mr. Joseph P. Bertoglio, Acting Director, Division of Program Coordination and Support, Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (ROB-3, Room 3608), Washington, D.C. 20202-3303. Telephone: (202) 245-2222.

(20 U.S.C. 1070d-2)

84.149—Grants for Special Educational Programs for Students Whose Families Are Engaged in Migrant and Other Seasonal Farmwork—College Assistance Migrant Program

Closing Date: February 19, 1982.

Applications are invited for new grants under the College Assistance Migrant Program (CAMP) to provide academic and supporting services and financial assistance to students who are engaged, or whose families are engaged, in migrant and other seasonal farmwork.

The authority for CAMP is contained in Section 418A of Title IV of the Higher Education Act (HEA), as amended by Pub. L. 96-374 (20 U.S.C. 1070d-2).

Eligible applicants are institutions of higher education (IHEs) and other public or nonprofit private agencies in cooperation with IHEs.

The purpose of CAMP is to provide grants to IHEs and other agencies, in cooperation with IHEs, to design and implement projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the postsecondary education level.

Closing Date for Transmittal of Applications: An applicant must mail or hand deliver its application for a grant

to the U.S. Department of Education by February 19, 1982.

Applications Delivered by Mail: An applicant that sends its application by mail must address its application to the U.S. Department of Education, Application Control Center, Attention: 84.149, Washington, D.C. 20202-3561.

An applicant must show proof of mailing, consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an applicant sends its application through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

The Secretary encourages an applicant to use registered or, at least, first class mail. The Secretary notifies a late applicant that its application will not be considered.

Applications Delivered by Hand: An applicant that hand delivers its application must take the application to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Street, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

The Application Control Center does not accept an application that is hand delivered after 4:30 p.m. on the closing date.

Program Information: The Secretary awards CAMP grants to IHEs and other agencies, in cooperation with IHEs, for projects of academic and supporting services and financial assistance to address the special educational needs of migrant and seasonal farmworker students and to enhance the opportunity of these students for success at the postsecondary education level.

The Secretary makes these grants to IHEs and other agencies, in cooperation with IHEs, to assist migrant and seasonal farmworker students who are

enrolled or are admitted for enrollment on a full-time basis in the first academic year at an IHE. CAMP provides assistance to help migrant and seasonal farmworker students in—

(1) Making the transition from secondary school to post-secondary school;

(2) Generating the motivation necessary to succeed in postsecondary school; and

(3) Developing the skills necessary to succeed in postsecondary school.

Available Funds: The Secretary estimates that there will be \$1.056 million available for FY 1982 grants. The Secretary estimates that these funds will support 3-5 projects with grants funded between \$100,000 and \$400,000. These estimates, however, do not bind the U.S. Department of Education to a specific number of grants nor to the amount of any grant unless that amount is otherwise specified by statute or regulations. An applicant may propose a project of from one to three years. However, the continued funding for projects approved for more than one year is subject to the availability and amount of a Congressional appropriation.

Application Forms: A prospective applicant may obtain application forms by writing to Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., (ROB-3, Room 3608), Washington, D.C. 20202-3303.

An applicant must prepare and submit its application in accordance with the regulations, instructions, and forms included in the grant application package.

The Secretary strongly urges that the narrative portion of an application not exceed 30 pages. The Secretary also urges that an application not submit information that is not requested.

Special Procedures: An applicant is subject to the State and areawide clearinghouse review procedures under OMB Circular A-95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A-95 requires an applicant to give the clearinghouse(s) sufficient time for review, consultation, and comments on its application.

In its application, an applicant must provide—

(1) The comments of each clearinghouse that commented on its application; or

(2) A statement that the applicant used the procedures of Part I of OMB

Circular A-95 but did not receive any clearinghouse comments.

Applicable Regulations: The regulations that apply to CAMP include the following:

(1) The Migrant Education High School Equivalent Program and College Assistance Migrant Program Regulations (34 CFR Part 206) that were published in the Federal Register on July 6, 1981, as final regulations.

(2) The Education Department General Administrative Regulations, 34 CFR Parts 75 and 77 (previously 45 CFR Parts 100a and 100c).

(3) The Grants Administration Regulations, 34 CFR Part 74 (previously 45 CFR Part 74).

Further Information: For further information, contact Mr. Joseph P. Bertoglio, Acting Director, Division of Program Coordination and Support, Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., (ROB-3, Room 3608), Washington, D.C. 20202-3303. Telephone (202) 245-2222.

(20 U.S.C. 1070d-2)

84.024C—Handicapped Children's Early Education Program

Closing Date: April 20, 1982.

Applications are invited for new State Implementation Grants under the Handicapped Children's Early Education Program.

Authority for this program is contained in section 624 of the Education of the Handicapped Act, (20 U.S.C. 1424).

The purpose of this program is to issue awards to State Education Agencies to assist eligible parties in the implementation of Statewide plans for preschool and early education for handicapped children and the accelerated provision of services to those children.

Closing Date for Transmittal of Applications: Applications for awards must be mailed or hand delivered by April 20, 1982.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.024C, 400 Maryland Avenue, S.W., Washington, D.C. 20202-3561.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available Funds: Approximately 20 new projects are expected to be funded during fiscal year 1982. The funding level for projects in prior years has averaged between \$50,000 and \$80,000.

However, these estimates do not bind the U.S. Department of Education to a specific number of grants unless that amount is otherwise specified by statute or regulation.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Handicapped Children's Early Education Program, Office of Special Education, Department of Education, 400 Maryland Avenue SW., (Donohoe Building), Washington, D.C. 20202-4714.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed fifty (50) pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Children's Early Education Program, 34 CFR Part 309 (formerly 45 CFR Part 121d). Amendments to these regulations were published on April 3, 1980 (45 FR 22532) and January 19, 1981 (46 FR 5378). The Department is currently reviewing the selection criteria contained in the January 19, 1981 amendment. If the Department proposes substantial changes in the selection criteria, the closing date will be extended; and

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 75 and 77 (formerly 45 CFR Parts 100a and 100c) (45 FR 22494-22631, April 3, 1980). Amendments to EDGAR were published on December 22, 1980 (45 FR 84058-84060) and January 14, 1981 (45 FR 3205-3206).

Further Information: For further information contact Ms. Jane DeWeerd, Handicapped Children's Early Education Program, U.S. Department of Education, 400 Maryland Avenue SW., (Donohoe Building, Room 3100), Washington, D.C. 20202-4714, Telephone: (202) 245-9722. (920 U.S.C. 1424)

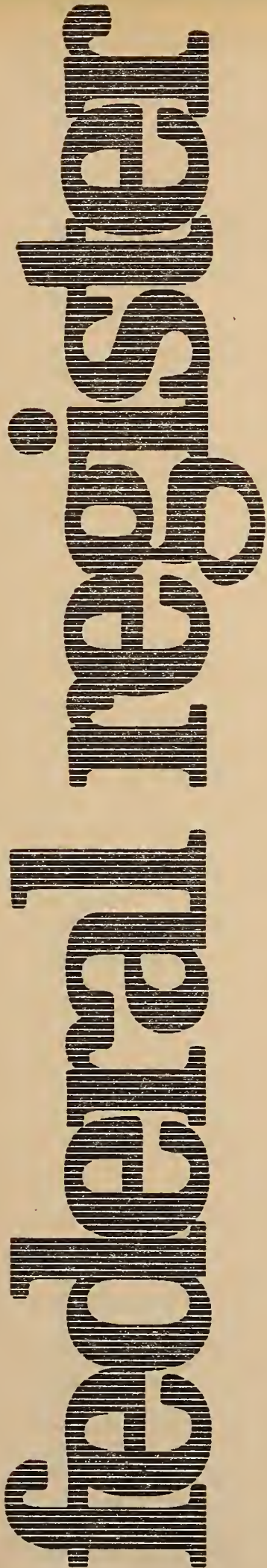
Dated: October 21, 1981.

T. H. Bell,

Secretary of Education.

[FR Doc. 81-31034 Filed 10-27-81; 8:45 am]

BILLING CODE 4000-01-M



Wednesday
October 28, 1981

Part III

**Department of
Health and Human
Services**

Health Services Administration

**Designation of Medically Underserved
Areas**

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES****Health Services Administration****Designation of Medically Underserved
Areas**

AGENCY: Health Services
Administration.

ACTION: Notice Correction and
Extension of Comment Period.

SUMMARY: In the Notice published October 14, 1981, (46 FR 50677), there was reference to a list of areas proposed to be deleted from the list of medically underserved areas (MUA). This list should have been included at the end of the Notice, but was inadvertently left off. The period of comment on the list is being extended to November 27, 1981.

DATE: The date for comment on the proposed list of MUA deletions is being extended until (30 days from the date of this publication.)

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Crooke, Chief, Positive Programming Branch, Division of Monitoring and Analysis, Bureau of Community Health Services, Room 6-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone number 301 443-1022.

SUPPLEMENTARY INFORMATION: The list of proposed MUA deletions published October 14, 1981, was inadvertently omitted and is included here for comment.

Dated: October 23, 1981.

John H. Kelso,

*Acting Administrator, Health Services
Administration.*

BILLING CODE 4110-84-M

PROPOSED DELETIONS TO CURRENT MUA LIST

ALABAMA

COUNTY NAME
-----COUNTIES
-----CENSUS TRACT

JEFFERSON	0008.00	0011.00	0012.00	0013.00	0015.00	0017.00
	0016.00	0044.00	0048.02	0104.00	0114.00	0119.00
	0125.00	0130.00	0133.00	0138.00	0141.02	
MORGAN	0052.00					
TUSCALOOSA	0103.00	0106.00	0125.00			

ALASKA

ANCHORAGE DIVISION
OUTER KETCHIKAN DIVISIONMCD/CCD

SKAGWAY-YAKUTAT DIVISION

YAKUTAT PORTION

ARIZONA

MCD/CCD

YUMA

PARKER DIV

WELLTON DIV

CENSUS TRACT

PIMA

0004.00

ARKANSAS

BOONE

MCD/CCD

BENTON

BRIGHTWATER TWP

MOUNT VERNON TWP

CRAIGHEAD

BIG CREEK TWP
LAKE CITY TWP
MAUMELLE TWPBUFFALO TWP
LITTLE TEXAS TWPCENSUS TRACT

PULASKI	0012.00	0013.00	0018.00	0038.00	0040.02	0043.00
SALINE	0105.00					
WASHINGTON	0101.00	0105.00	0110.00			

PROPOSED DELETIONS TO CURRENT MUA LIST

CALIFORNIA

COUNTY NAME

COUNTIES

SIERRA

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

MODOC

ADIN-LOOKOUT DIV

ALTURAS DIV

SAN BENITO

HOLLISTER DIV

SAN BENITO-BITTERWATER DIV

SAN JUAN BAUTISTA DIV

MCD/CCD

BUTTE

FEATHER FALLS DIV

GLENN

ORLAND DIV

IMPERIAL

CALIPATRIA DIV

WEST IMPERIAL DIV

MEPCFD

DOS PALOS DIV

LIVINGSTON-DELHI DIV

SAN LUIS OBISPO

ARROYO GRANDE DIV

YUBA

YUBA FOOTHILLS DIV

CENSUS TRACT

ALAMEDA

4018.00	4026.00	4034.00	4053.00	4061.00	4072.00
4086.00	4087.00	4088.00	4089.00	4090.00	4091.00
4092.00	4094.00	4095.00	4096.00	4103.00	4104.00
4229.00	4401.00				

CONTRA COSTA

3650.00

KERN

0033.01 0033.02 0037.00 0060.00

LOS ANGELES

1047.00	1923.00	2031.00	2034.00	2061.00	2063.00
2087.00	2089.00	2095.00	2098.00	2113.00	2118.00
2146.00	2164.00	2204.00	2261.00	2282.00	2283.00
2288.00	2289.00	2291.00	2421.00	2426.00	2431.00
4024.04	5404.00	5716.00	5746.01	5758.00	5766.00
5767.00	7014.00				

MONTEREY

0111.00

NAPA

2013.00

SACRAMENTO

0009.00 0010.00 0013.00 0094.00 0095.00

SAN BERNARDINO

0049.00 0058.00 0059.00 0060.00

SAN DIEGO

0052.00 0056.00 0090.00 0100.00 0170.04 0200.01

SAN FRANCISCO

0124.00 0255.00

SAN MATEO

6117.00

SANTA CLARA

5009.00 5010.00

SOLANO

2527.00

TULARE

0002.00 0006.00

PROPOSED DELETIONS TO CURRENT MUA LIST

COLORADO

COUNTY NAME

COUNTIES

CHEYENNE
CUSTER
GILPIN
HUERFANO
JACKSON
KIOWA
LAKE
SAN MIGUEL

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

MONTEZUMA

CORTEZ DIV
MANCOS DIV

DOLORES DIV
PLEASANT VIEW DIV

MCD/CCD

BACA

CAMPO DIV

LINCOLN

HUGO DIV

KARVAL DIV

LOGAN

CROOK DIV

FLEMING DIV

MORGAN

WELDONA DIV

WIGGINS DIV

PHILLIPS

HAXTUN DIV

CENSUS TRACT

ADAMS

0089.52

PUEBLO

0006.00 0008.00 0011.00 0015.00 0019.00 0020.00
0026.00 0028.02 0030.02

WELD

0016.00 0018.00 0025.00

CONNECTICUT

MCD/CCD

WINDHAM

EASTFORD TOWN
PLAINFIELD TOWN
PUTNAM TOWN

KILLINGLY TOWN
POMFRET TOWN
STERLING TOWN

CENSUS TRACT

FAIRFIELD

0201.00 0222.00 0703.00 0705.00 0706.00 0708.00
0709.00 0716.00

HARTFORD

5008.00 5012.00 5013.00 5014.00 5015.00 5016.00
5018.00 5021.00 5022.00 5034.00 5035.00 5037.00

MIDDLESEX

5408.00

NEW HAVEN

1402.00 1403.00 1405.00 1406.00 1407.00 1409.00
1416.00 1417.00 1424.00

NEW LONDON

6907.00 6968.00

DELAWARE

CENSUS TRACT

NEW CASTLE

0006.01 0008.00

PROPOSED DELETIONS TO CURRENT MJA LIST

DIST OF COLUMBIA

COUNTY NAME
-----COUNTIES
-----CENSUS TRACT

DIST OF COLUMBIA

0005.00	0014.00	0033.01	0036.00	0038.00	0041.00
0067.00	0069.00	0074.01	0078.04	0083.01	

FLORIDA

UNION

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

BAY

LYNN HAVEN DIV

MEXICO BEACH DIV

PANAMA CITY BEACHES DIV

SPRINGFIELD DIV

GULF

PORT ST JOE DIV

HENDRY

CLEWISTON DIV

MCD/CCD

COLLIER

IMMOKALEE DIV

MARTIN

INDIANTOWN DIV

OKALOOSA

CRESTVIEW DIV

CENSUS TRACT

ALACHUA

0002.00

BROWARD

0405.00 0421.00 0901.00 1001.00

DADE

0002.01	0002.08	0004.03	0010.04	0014.00	0015.01
0015.02	0017.01	0018.01	0018.02	0018.03	0019.01
0019.02	0020.01	0027.01	0028.00	0031.00	0034.00
0036.01	0036.02	0052.00	0053.00	0064.00	0066.00
0067.02	0072.00	0093.03	0104.00	0106.02	0113.00
0114.00					

DUVAL

0007.00	0008.00	0022.00	0023.00	0027.00	0113.00
0155.00					

ESCAMBIA

0005.00	0014.00	0019.00	0020.00	0021.00	0022.00
0024.00	0025.00	0026.00	0032.00	0034.00	

HILLSBOROUGH

0018.00 0049.00

ORANGE

0114.00

SEMINOLE

0210.00 0212.00

PROPOSED DELETIONS TO CURRENT MUA LIST

GEORGIA

COUNTY NAME

COUNTIES

 DAWSON
 FRANKLIN
 GLYNN

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

TROUP

ABBOTTSFORD DIV	HILLCREST DIV
LA GRANGE DIV	MOUNTVILLE DIV
OAK GROVE DIV	PLEASANT GROVE DIV
TATUM DIV	

UPSON

ATWATER DIV	THE ROCK-YATESVILLE DIV
THOMASTON DIV	

MCD/CCD

CATOOSA

RINGGOLD DIV

STEPHENS

TOCCOA CREEK DIV

CENSUS TRACT

CHATHAM

0021.00	0022.00	0029.00	0030.00	0032.00	0033.00
0036.01	0106.02				

CHATTAHOOCHEE

0201.00

CLARKE

0001.00	0004.00	0007.00	0008.00	0010.00	0011.00
0012.00					

DOUGLAS

0803.00 0804.00

FULTON

0008.00 0017.00 0019.00 0104.00

RICHMOND

0004.00 0006.00 0007.00 0009.00 0014.00 0015.00

HAWAII

CENSUS TRACT

HONOLULU

0062.02 0098.00

IDAHO

BOUNDARY
 CLEARWATER
 CUSTER

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

BINGHAM

ABERDEEN DIV	ALRIDGE DIV
BLACKFOOT DIV	FIRTH DIV
FORT HALL DIV	MORELAND DIV
SHELLEY DIV	

MCD/CCD

BENEFAN

TENNESSEE DIV

GEM

SWEET DIV

PROPOSED DELETIONS TO CURRENT MUA LIST

ILLINOIS

COUNTY NAME

COUNTIES

PUTNAMMCD/CCD IN PREVIOUSLY WHOLE COUNTIES

DE WITT

BARNETT TWP

CLINTONIA TWP

DE WITT TWP

HARP TWP

NIXON TWP

RUTLEDGE TWP

SANTA ANNA TWP

TEXAS TWP

WAPELLA TWP

WAYNESVILLE TWP

WILSON TWP

MORGAN

ALEXANDER PREC

ARCADIA PREC

CENTERVILLE PREC

CHAPIN PREC

CONCORD PREC

FRANKLIN PREC

JACKSONVILLE PREC

LITERBERRY PREC

LYNNVILLE PREC

MARKHAM PREC

MEREDOSIA PREC

MURRAYVILLE PREC

NORTONVILLE PREC

PISGAH PREC

PRENTICE PREC

SINCLAIR PREC

WOODSON PREC

SALINE

BRUSHY TWP

COTTAGE TWP

EAST ELDORADO TWP

HARRISBURG TWP

INDEPENDENCE TWP

LONG BRANCH TWP

MOUNTAIN TWP

RALEIGH TWP

RECTOR TWP

STONEFORT TWP

TATE TWP

WARREN

BERWICK TWP

COLDBROOK TWP

ELLISON TWP

FLOYD TWP

GREENDUSH TWP

HALE TWP

KELLY TWP

LENOX TWP

MONMOUTH TWP

POINT PLEASANT TWP

SPRING GROVE TWP

SUMNER TWP

SWAN TWP

TOMPKINS TWP

WASHINGTON

ASHLEY TWP

BEAUCOUP TWP

BOLO TWP

COVINGTON TWP

HOYLETON TWP

IRVINGTON TWP

JOHANNISBURG TWP

LIVELY GROVE TWP

NASHVILLE TWP

OAKDALE TWP

PILOT KNOB TWP

PLUM HILL TWP

RICHVIEW TWP

VENEDY TWP

MCD/CCD

ADAMS

CAMP POINT TWP

HONEY CREEK TWP

KEENE TWP

PROPOSED DELETIONS TO CURRENT MUA LIST

ILLINOIS

COUNTY NAME	MCD/CCD				
-----	-----				
CARROLL	LIMA TWP				
CASS	ARENZVILLE TWP				
CLINTON	IRISHTOWN TWP			MERIDIAN TWP	
	SANTA FE TWP				
COLES	ASHMORE TWP			CHARLESTON TWP	
	PLEASANT GROVE TWP				
EDGAR	EDGAR TWP				
FULTON	BUCKHEART TWP			HARRIS TWP	
	JOSHUA TWP			LEWISTOWN TWP	
	VERMONT TWP				
IROQUOIS	PIGEON GROVE TWP			STOCKLAND TWP	
LA SALLE	FREEDOM TWP			HOPE TWP	
MONTGOMERY	BOIS D'ARC TWP			SUTLER GROVE TWP	
	HILLSEORO TWP				
SHELBY	SIGEL TWP				
WHITE	MILL SHOALS TWP				
WILLIAMSON	STONEFORT PREC				
	CENSUS TRACT				

CHAMPAIGN	0002.00				
COOK	0310.00	0317.00	0320.00	0321.00	0514.00
	0621.00	0703.00	0719.00	0803.00	0810.00
	0813.00	0815.00	1603.00	2309.00	2406.00
	2411.00	2420.00	2426.00	2435.00	2524.00
	2701.00	2708.00	2709.00	2829.00	2910.00
	2919.00	3005.00	3014.00	3107.00	3201.00
	3403.00	3506.00	3509.00	3512.00	3701.00
	3904.00	3907.00	4004.00	4007.00	4008.00
	6603.00	6606.00	6607.00	6717.00	6801.00
	6906.00	6911.00	6912.00	7105.00	7207.00
	8123.00	8126.00	8128.00	8143.00	8149.00
	8151.00	8160.00	8290.00	8297.00	8150.00
PEORIA	0002.00	0010.00	0012.00	0013.00	0017.00
ROCK ISLAND	0206.00	0224.00			
SANGAMON	0008.00				
VERMILION	0109.00				

PROPOSED DELETIONS TO CURRENT MUA LIST

INDIANA

COUNTY NAME

COUNTIES

STEUBEN

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

FAYETTE

COLUMBIA TWP
FAIRVIEW TWP
JACKSON TWP
ORANGE TWPCONNERSVILLE TWP
HARRISON TWP
JENNINGS TWP
POSEY TWP

ORANGE

FRENCH LICK TWP
JACKSON TWP
NORTHWEST TWP
ORLEANS TWP
SOUTHEAST TWPGREENFIELD TWP
NORTHEAST TWP
ORANGEVILLE TWP
PAOLI TWP

WHITE

BIG CREEK TWP
JACKSON TWP
PRAIRIE TWP
ROUND GROVE TWP
WEST POINT TWPCASS TWP
MONON TWP
PRINCETON TWP
UNION TWP

MCD/CCD

ADAMS

ST MARYS TWP
WABASH TWP

UNION TWP

JAY

PENN TWP

JEFFERSON

SALUDA TWP

JENNINGS

LOVETT TWP

KNOX

VIGO TWP

RANDOLPH

WHITE RIVER TWP

RUSH

ORANGE TWP

CENSUS TRACT

DEARBORN

0803.00 0805.00

LAKE

0108.00 0114.00 0122.00 0124.00 0129.00 0302.00

MARION

3413.00 3416.00 3501.00 3502.00 3508.00 3510.00
3511.00 3514.00 3517.00 3525.00 3528.00 3532.00
3538.00 3552.00 3558.00

PROPOSED DELETIONS TO CURRENT MUA LIST

IOWA

COUNTY NAME

COUNTIES

LUCAS

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

ADAMS

CARL TWP
DOUGLAS TWP
JASPER TWP
MERCER TWP
UNION TWPCOLONY TWP
GRANT TWP
LINCOLN TWP
MOWAT TWP
WASHINGTON TWP

AUDUBON

AUDUBON TWP
DOUGLAS TWP
HAMLIN TWP
MELVILLE TWP
VIOLA TWPCAMERON TWP
GREELEY TWP
LEROY TWP
OAKFIELD TWP

CHICKASAW

CHICKASAW TWP
DEERFIELD TWP
FREDERICKSBURG TWP
RICHLAND TWP
UTICA TWPDAYTON TWP
DRESDEN TWP
NEW HAMPTON TWP
STAPLETON TWP

DELAWARE

ADAMS TWP
COFFINS GROVE TWP
DELAWARE TWP
NORTH FORK TWP
PRAIRIE TWP
UNION TWPDREMEN TWP
COLONY TWP
HAZEL GREEN TWP
ONEIDA TWP
SOUTH FORK TWP

FREMONT

BENTON TWP
FRANKLIN TWP
LOCUST GROVE TWP
MONROE TWP
RIVERSIDE TWP
SCOTT TWP
WALNUT TWPFISHER TWP
GREEN TWP
MADISON TWP
PRAIRIE TWP
RIVERTON TWP
SIDNEY TWP
WASHINGTON TWP

TAMA

BUCKINGHAM TWP
CARROLL TWP
COLUMBIA TWP
GENESEO TWP
HIGHLAND TWP
INDIAN VILLAGE TWP
ONEIDA TWP
RICHLAND TWP
TOLEDO TWPCARLTON TWP
CLARK TWP
CRYSTAL TWP
GRANT TWP
HOWARD TWP
LINCOLN TWP
OTTER CREEK TWP
TAMA TWP

PROPOSED DELETIONS TO CURRENT MUA LIST

IOWA

COUNTY NAME

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

TAYLOR

BEITON TWP
DALLAS TWP
GRANT TWP
HOLT TWP
MARSHALL TWP
MOWAT TWP
POLK TWP
WASHINGTON TWPCLAYTON TWP
GAY TWP
GROVE TWP
JACKSON TWP
MASON TWP
PLATTE TWP
ROSS TWP

MCD/CCD

CHEROKEE

PITCHER TWP

CLARKE

TROY TWP

CLAYTON

BOARDMAN TWP
GIARD TWP
SPERRY TWP
WAGNER TWPCASS TWP
MENDON TWP
VOLGA TWP

GREENE

JEFFERSON TWP

HAMILTON

WILLIAMS TWP

HOWARD

VERNON SPRINGS TWP

KOSSUTH

LIVERNE TWP

WHITTEMORE TWP

LOUISA

COLUMBUS CITY TWP
MORNING SUN TWP
WAPELLO TWPELIOT TWP
PORT LOUISA TWP

PALO ALTO

RUSH LAKE TWP

WALNUT TWP

SAC

LEVEY TWP

UNION

NEW HOPE TWP

VAN BUREN

JACKSON TWP

WAPELLO

ADAMS TWP
RICHLAND TWP

COLUMBIA TWP

CENSUS TRACT

BLACK HAWK

0005.00

POTTAWATTAMIE

0215.00 0308.00

PROPOSED DELETIONS TO CURRENT MUA LIST

KANSAS

COUNTY NAME

COUNTIES

 CHEYENNE
 COWLEY
 HARPER
 STEVENS

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

BOURBON

 DRYWOOD TWP
 FRANKLIN TWP
 HARMATON TWP
 OSAGE TWP
 SCOTT TWP
 WALNUT TWP

FORT SCOTT CITY
 FREEDOM TWP
 MILL CREEK TWP
 PAWNEE TWP
 TIMBERHILL TWP

CRAWFORD

DAKER TWP
 FRONTENAC CITY
 OSAGE TWP
 SHERIDAN TWP
 WASHINGTON TWP

CRAWFORD TWP
 GRANT TWP
 PITTSBURG CITY
 SHERMAN TWP

KEARNY

EAST HIBBARD TWP
 KENDALL TWP
 SOUTHSIDE TWP

HARTLAND TWP
 LAKIN TWP
 WEST HIBBARD TWP

MORRIS

BURDICK TWP
 COUNCIL GROVE TWP
 ELM CREEK TWP
 GARFIELD TWP
 HIGHLAND TWP
 OHIO TWP
 PARKER TWP
 WARREN TWP

CLARKS CREEK TWP
 DIAMOND VALLEY TWP
 FOUR MILE TWP
 GRANDVIEW TWP
 NEOSHO TWP
 OVERLAND TWP
 VALLEY TWP

STANTON

MANTER TWP

STANTON TWP

SUMNER

AVON TWP
 BLUFF TWP
 CHIKASKIA TWP
 CREEK TWP
 DOWNS TWP
 FALLS TWP
 GREENE TWP
 HARMON TWP
 JACKSON TWP
 MORRIS TWP
 OXFORD TWP
 RYAN TWP
 SOUTH HAVEN TWP
 SUMNER TWP
 WALTON TWP
 WELLINGTON TWP

DELLE PLAINE TWP
 CALDWELL TWP
 CONWAY TWP
 DIXON TWP
 EDEN TWP
 GORE TWP
 GUELPH TWP
 ILLINOIS TWP
 LONDON TWP
 OSSORN TWP
 PALESTINE TWP
 SEVENTY-SIX TWP
 SPRINGDALE TWP
 VALVERDE TWP
 WELLINGTON CITY

MCD/CCD

BARBER

 KIOWA TWP

HAMILTON

SYRACUSE TWP

JEFFERSON

ROCK CREEK TWP

UNION TWP

KINGMAN

BENNETT TWP

PHILLIPS

LOGAN TWP

RICE

FARMER TWP

ROOKS

STOCKTON TWP

PROPOSED DELETIONS TO CURRENT MUA LIST

KANSAS

COUNTY NAME -----	COUNTIES -----	CENSUS TRACT -----				
BUTLER		0206.00				
LEAVENWORTH		0709.00	0710.00	0711.00		
SEDGWICK		0004.00	0008.00	0035.00	0078.00	
SHAWNEE		0003.00	0004.00	0014.00		
WYANDOTTE		0408.00	0412.01	0412.02	0416.00	0417.00
		0425.02	0426.00	0431.02		0420.02

KENTUCKY

MADISON

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

PENDLETON

BUTLER DIV

FALMOUTH WEST DIV

MCD/CCD

BOYLE

JUNCTION CITY DIV

PERRYVILLE DIV

HARDIN

CECILIA DIV

SUMMIT DIV

HOPKINS

DAWSON SPRINGS DIV
ST CHARLES DIV

MORTONS GAP DIV

MASON

MAYSVILLE DIV

WOODFORD

VERSAILLES NORTH DIV

CENSUS TRACT

JEFFERSON

0002.00	0006.00	0023.00	0029.00	0057.00	0065.00
0066.00	0067.00	0068.00	0072.00	0078.00	

LOUISIANA

WEST FELICIANA

MCD/CCD

LAFOURCHE

WARD 9

CENSUS TRACT

ORLEANS

0003.00	0007.02	0009.04	0013.01	0015.00	0025.03
0026.00	0029.00	0036.00	0037.02	0046.00	0064.00
0096.00	0102.00	0106.00			

ST BERNARD

0303.00 0307.00

PROPOSED DELETIONS TO CURRENT MUA LIST

MAINE

COUNTY NAME

COUNTIES

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

SOMERSET

ANSON TOWN	ATHENS TOWN
BINGHAM TOWN	BRIGHTON PLANTATION
CAMBRIDGE TOWN	CANAAN TOWN
CARATUNK PLANTATION	CORNVILLE TOWN
DEMNISTON PLANTATION	DETROIT TOWN
EMBUEH TOWN	FAIRFIELD TOWN
HARMONY TOWN	HARTLAND TOWN
HIGHLAND PLANTATION	JACKMAN TOWN
MADISON TOWN	MERCER TOWN
MOOSE RIVER TOWN	MOSCOW TOWN
NORRIDGEWOCK TOWN	PALMYRA TOWN
PITTSFIELD TOWN	PLEASANT RIDGE PLANTATION
RIPLEY TOWN	SKOWHEGAN TOWN
SMITHFIELD TOWN	SOLOH TOWN
ST ALBANS TOWN	STARKS TOWN
THE FORKS PLANTATION	UNORG TERR OF CENTRAL SOME
UNORG TERR OF NORTH SOMERS	WEST FORKS PLANTATION

WALDO

BELFAST CITY	BELMONT TOWN
BURNHAM TOWN	FREEDOM TOWN
ISLEBOROUGH TOWN	JACKSON TOWN
KNOX TOWN	LIBERTY TOWN
LINCOLNVILLE TOWN	MONROE TOWN
MONTVILLE TOWN	NORRILL TOWN
NORTHPORT TOWN	PALERMO TOWN
PROSPECT TOWN	SEARSMONT TOWN
SEARSPORT TOWN	STOCKTON SPRINGS TOWN
SWANVILLE TOWN	THORNDIKE TOWN
TROY TOWN	UNITY TOWN
WALDO TOWN	WINTERPORT TOWN

WASHINGTON

ALEXANDER TOWN	BAILEYVILLE TOWN
BEALS TOWN	BEDDINGTON TOWN
CALAIS CITY	CENTERVILLE TOWN
CHARLOTTE TOWN	CODYVILLE PLANTATION
COLUMBIA FALLS TOWN	COLUMBIA TOWN
COOPER TOWN	CRAWFORD TOWN
CUTLER TOWN	DEBLOIS TOWN
DEHNSVILLE TOWN	GRAND LAKE STREAM PLANTATI
JONESBORO TOWN	MACHIAS TOWN
MACHIASPORT TOWN	MARSHFIELD TOWN
MEDDYBEMPS TOWN	MILBRIDGE TOWN
NORTHFIELD TOWN	PEMBROKE TOWN
PLANTATION NO 14	PLANTATION NO 21
ROBBINSTON TOWN	ROQUE BLUFFS TOWN
TALHADGE TOWN	UNORG TERR OF DARING
UNORG TERR OF EAST CENTRAL	VANCEBORD TOWN
WAITE TOWN	WESLEY TOWN
WHITING TOWN	WHITNEYVILLE TOWN

PROPOSED DELETIONS TO CURRENT MUA LIST

MAINE

COUNTY NAME -----	COUNTIES ----- MCD/CCD -----	
FRANKLIN	RANGELEY TOWN	WELD TOWN
KENNEBEC	CLINTON TOWN	
KNOX	APPLETON TOWN	
LINCOLN	BRISTOL TOWN DRESDEN TOWN SOUTH BRISTOL TOWN	DAMARISCOTTA TOWN EDGECOMB TOWN
OXFORD	BRONNFIELD TOWN NEWRY TOWN	HIRAM TOWN
PENOBSCOT	DIXMONT TOWN GREENDUSH TOWN WINN TOWN	GARLAND TOWN KENDUSKEAG TOWN
YORK	PARSONFIELD TOWN	
	CENSUS TRACT -----	
CUMBERLAND	0008.00	

MARYLAND

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

DORCHESTER	DIST 1 FORK	DIST 10 STRAITS
	DIST 11 DRAWBRIDGE	DIST 12 WILLIAMSBURG
	DIST 13 BUCKTOWN	DIST 14 LINKWOOD
	DIST 15 HURLOCK	DIST 16 MADISON
	DIST 17 SALEM	DIST 18 ELLIOTT
	DIST 2 EAST NEW MARKET	DIST 3 VIENNA
	DIST 4 TAYLORS ISLAND	DIST 5 LAKES
	DIST 7 CAMBRIDGE	DIST 8 NECK
ST MARYS	DIST 1 ST INIGOES	DIST 2 VALLEY LEE
	DIST 3 LEONARDTOWN	DIST 5 MECHANICSVILLE
	DIST 6 PATUXENT	DIST 8 BAY
	DIST 9 ST GEORGE ISLAND	
	MCD/CCD -----	
ALLEGANY	DIST 31 MC COOLE	
KENT	DIST 1 MASSEYS	DIST 2 KENNEDYVILLE
	DIST 5 EDESVILLE	
WICOMICO	DIST 7 TRAPPE	
	CENSUS TRACT -----	
ANNE ARUNDEL	7028.00	7063.00
BALTIMORE CITY	0401.00	0703.00
	1207.00	1301.00
	1902.00	2001.00
PRINCE GEORGES	8026.00	
	0806.00	0903.00
	1401.00	1512.00
	2003.00	2004.00
		1101.00
		1604.00
		2201.00
		1206.00
		1803.00
		2709.03

PROPOSED DELETIONS TO CURRENT MUA LIST

MASSACHUSETTS

COUNTY NAME
-----COUNTIES
-----MCO/CCD

BARNSTABLE

PROVINCETOWN TOWN

FRANKLIN

ROWE TOWN

HAMPSHIRE

PLAINFIELD TOWN

WORCESTER

DOUGLAS TOWN

ROYALSTON TOWN

CENSUS TRACT

MIDDLESEX

3524.00 3548.00 3550.00

SUFFOLK

0005.00	0101.00	0103.00	0105.00	0304.00	0607.00
0611.00	0702.00	0706.00	0703.00	0710.00	0711.00
0712.00	0801.00	0802.00	0803.00	0804.00	0806.00
0807.00	0811.00	0812.00	0814.00	0817.00	0818.00
0903.00	0905.00	0906.00	0909.00	0914.00	0919.00
0923.00	0924.00	1001.00	1002.00	1006.00	1203.00
1204.00	1205.00				

WORCESTER

7316.00 7471.00 7481.00 7491.00 7492.00

PROPOSED DELETIONS TO CURRENT NUA LIST

MICHIGAN

COUNTY NAME

COUNTIES

ALGER
GOGEBIC
IRON

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

HURON

BAD AXE CITY
BLOOMFIELD TWP
CASEVILLE TWP
COLFAX TWP
GORE TWP
HARBOR BEACH CITY
HURON TWP
MC KINLEY TWP
OLIVER TWP
POINTE AUX BARQUES TWP
SAND BEACH TWP
SHERIDAN TWP
WINSOR TWPBINGHAM TWP
BROOKFIELD TWP
CHANDLER TWP
FAIRHAVEN TWP
GRANT TWP
HUME TWP
LINCOLN TWP
MEADE TWP
PARIS TWP
RUBICON TWP
SEBEWAING TWP
VERONA TWP

OGEMAW

CUNNING TWP
FOSTER TWP
HORTON TWP
LOGAN TWP
RICHLAND TWP
WEST BRANCH CITYEDWARDS TWP
GOODAR TWP
KLACKING TWP
OGEMAW TWP
ROSE CITY CITY
WEST BRANCH TWP

OSCODA

CLINTON TWP
ELMER TWPCOMINS TWP
GREENWOOD TWP

PRESQUE ISLE

BEARINGER TWP
CASE TWP
METZ TWP
NORTH ALLIS TWP
POSEN TWP
PULAWSKI TWP
ROGERS TWPBISMARCK TWP
KRAKOW TWP
MOLTKE TWP
OCQUEOC TWP
PRESQUE ISLE TWP
ROGERS CITY CITY

SANILAC

AUSTIN TWP
BROWN CITY CITY
CROSWELL CITY
DELAWARE TWP
ELMER TWP
GREENLEAF TWP
LEXINGTON TWP
MARLETTE TWP
SANDUSKY CITY
WATERTOWN TWPBRIDGEHAMPTON TWP
BUEL TWP
CUSTER TWP
ELK TWP
FLYNN TWP
LAMOTTE TWP
MAPLE VALLEY TWP
MOORE TWP
WASHINGTON TWP

PROPOSED DELETIONS TO CURRENT MUA LIST

MICHIGAN

COUNTY NAME -----	MCD/CCD -----				
ALLEGAN	LEE TWP				
CASS	VOLINIA TWP				
CHIPPEWA	BAY MILLS TWP			CHIPPEWA TWP	
	HULBERT TWP			PICKFORD TWP	
	RUDYARD TWP			SUPERIOR TWP	
	TROUT LAKE TWP			WHITEFISH TWP	
DELTA	BRAMPTON TWP				
IOSCO	BURLEIGH TWP			PLAINFIELD TWP	
LUCE	LAKEFIELD TWP				
MANISTEE	MARILLA TWP				
OTSEGO	CHARLTON TWP			CORWITH TWP	
ST CLAIR	LYNN TWP				
WEXFORD	ANTIOCH TWP			BOON TWP	
	MANTON CITY			SPRINGVILLE TWP	
	CENSUS TRACT -----				
CLINTON	0107.00				
INGHAM	0041.00				
JACKSON	0002.00	0011.00			
LAPEER	0201.00	0211.00			
MUSKEGON	0011.00	0013.00			
CAKLAND	1038.01				
WAYNE	0003.00	0016.00	0021.00	0035.00	0039.00
	0115.00	0175.00	0521.00	0663.00	0757.00
	0960.00				0837.00

PROPOSED DELETIONS TO CURRENT MJA LIST

MINNESOTA

COUNTY NAME

COUNTIES

LAKE OF THE WOODS
MAHNOMEN

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

HOUSTON

BLACK HAMMER TWP
EROMINSVILLE VILLAGE
CROOKED CREEK TWP
HOKAH TWP
JEFFERSON TWP
LA CRESCENT VILLAGE
MONEY CREEK TWP
SHELDON TWP
WILMINGTON TWP
YUCATAN TWP

BROWNSVILLE TWP
CALEDONIA TWP.
EITZEN VILLAGE
HOUSTON TWP
LA CRESCENT TWP
MAYVILLE TWP
MOUND PRAIRIE TWP
UNION TWP
WINNEBAGO TWP

ROSEAU

BADGER VILLAGE
BARTO TWP
BLOOMING VALLEY TWP
DEER TWP
DIETER TWP
FALUN TWP
GRINSTAD TWP
HUSS TWP
LAKE TWP
LIND TWP
MICKINOCK TWP
MORANVILLE TWP
PALMVILLE TWP
POLONIA TWP
REINE TWP
ROSEAU VILLAGE
SKAGEN TWP
SPRUCE TWP
STOKES TWP
UNORG TERR OF NORTH ROSEAU
UNORG TERR OF SOUTHEAST RO

BARNETT TWP
BEAVER TWP
CEDARBEND TWP
DEWEY TWP
ENSTROM TWP
GOLDEN VALLEY TWP
HEREIM TWP
JADIS TWP
LAONA TWP
MALUNG TWP
MOOSE TWP
NERESON TWP
POHLITZ TWP
POPLAR GROVE TWP
ROOSEVELT VILLAGE
ROSS TWP
SOLER TWP
STAFFORD TWP
STRATHCONA VILLAGE
UNORG TERR OF NORTHWEST RO

TRAVERSE

ARTHUR TWP
CROKE TWP
DUMONT VILLAGE
LAKE VALLEY TWP
MONSON TWP
REDPATH TWP
TAYLOR TWP
TINTAH VILLAGE
WHEATON VILLAGE

CLIFTON TWP
DOLLYMOUNT TWP
FOLSOM TWP
LEONARDSVILLE TWP
PARNELL TWP
TARA TWP
TINTAH TWP
WALLS TWP
WINDSOR TWP

PROPOSED DELETIONS TO CURRENT MUA LIST

MINNESOTA

COUNTY NAME -----	MCD/CCD IN PREVIOUSLY WHOLE COUNTIES -----					
WASECA	ALTON TWP					BLOOMING GROVE TWP
	BYRON TWP					FREEDOM TWP
	IOSCO TWP					JANESVILLE TWP
	JANESVILLE VILLAGE					NEW RICHLAND TWP
	OTISCO TWP					VIVIAN TWP
	WALDORF VILLAGE					WASECA CITY
	WILTON TWP					WOODVILLE TWP
	MCD/CCD -----					
BECKER	FRAZEE VILLAGE					LAKE PARK VILLAGE
CARLTON	BARNUM TWP					CARLTON VILLAGE
FARIBAULT	BARBER TWP					FOSTER TWP
GOODHUE	BELVIDERE TWP					KENYON VILLAGE
HUBBARD	TODD TWP					
KOOCHICHIING	BIG FALLS VILLAGE					
LYON	COTTONWOOD VILLAGE					MINNEOTA VILLAGE
MARTIN	SHERBURN VILLAGE					
MILLE LACS	KATHIO TWP					
MORRISON	RIPLEY TWP					
OTTER TAIL	PELICAN RAPIDS VILLAGE					
WABASHA	LAKE CITY CITY					PLAINVIEW VILLAGE
	WABASHA CITY					
WINONA	UTICA TWP					
	CENSUS TRACT -----					
HENNEPIN	0033.00	0036.00	0042.00	0044.00	0046.02	0052.00
	0069.00	0071.00				
RAMSEY	0336.00	0337.00				
ST LOUIS	0131.00					

MISSISSIPPI

	CENSUS TRACT -----			
HARRISON	0007.00	0020.00	0034.00	
HINDS	0006.00	0009.00	0019.00	0107.00 0108.00

PROPOSED DELETIONS TO CURRENT MUA LIST

MISSOURI

COUNTY NAME

PULASKI

COUNTIES

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

RAY	CAMDEN TWP GRAPE GROVE TWP ORRICK TWP RICHMOND TWP	FISHING RIVER TWP KNOXVILLE TWP POLK TWP
SALINE	BLACKWATER TWP LIBERTY TWP MIAMI TWP SALT POND TWP	GRAND PASS TWP MARSHALL TWP SALT FORK TWP
ADAIR	MCD/CCD ----- NINEVEH TWP	
BUTLER	ASH HILL TWP GILLIS BLUFF TWP ST FRANCOIS TWP	BEAVER DAM TWP NEELY TWP
CALLAWAY	BOURBON TWP JACKSON TWP	CALWOOD TWP WEST FULTON TWP
COOPER	CLEAR CREEK TWP PILOT GROVE TWP	KELLY TWP
HENRY	FAIRVIEW TWP	
JASPER	JASPER TWP	SARCOXIE TWP
NODAWAY	JEFFERSON TWP	WHITE CLOUD TWP
PERRY	BOIS BRULE TWP UNION TWP	BRAZEAU TWP
PHELPS	ARLINGTON TWP	SPRING CREEK TWP
ST FRANCOIS	IRON TWP	PENDLETON TWP

CENSUS TRACT

BOONE	0001.00	0005.00	0008.00			
JACKSON	0031.00	0039.00				
ST LOUIS	2123.00					
ST LOUIS CITY	1021.00	1061.00	1121.00	1156.00	1192.00	1263.00

PROPOSED DELETIONS TO CURRENT MUA LIST

MONTANA

COUNTY NAME

COUNTIES

 FALLON
 JEFFERSON
 SILVER BOW
 WHEATLAND

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

LAKE	CHARLO DIV ROMAN DIV	POLSON DIV
PHILLIPS	DODSON DIV LORING DIV SACO DIV WHITEWATER DIV	LANDUSKY-ZORTMAN DIV REGINA-SUN PRAIRIE DIV WARM SPRING CREEK DIV
PONDERA	CONRAD DIV	CONRAD RURAL-BRADY DIV
SWEET GRASS	NORTH OF THE YELLOWSTONE O	
	MCD/CCD -----	
POWELL	AVON-ELLISTON DIV	COTTONWOOD DIV

NEBRASKA

CHERRY
 GARDEN
 KIMBALL

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

BUTLER	ALEXIS TWP CENTER TWP LINWOOD TWP PLATTE TWP READ TWP RICHARDSON TWP SKULL CREEK TWP ULYSSES TWP	BONE CREEK TWP FRANKLIN TWP OLIVE TWP PLUM CREEK TWP READING TWP SAVANNAH TWP SUMMIT TWP UNION TWP
CUSTER	ALGERNON TWP BERWYN TWP BROKEN BOW TWP CONSTOCK TWP CUSTER TWP EAST CUSTER TWP ELK CREEK TWP GRANT TWP LILLIAN TWP MILBURN TWP RYNO TWP TRIUMPH TWP WAYNE TWP WESTERVILLE TWP	ANSLEY TWP BROKEN BOW CITY CLIFF TWP CORNER TWP DOUGLAS GROVE TWP ELIM TWP GARFIELD TWP HAYES TWP LOUP TWP MYRTLE TWP SPRING CREEK TWP VICTORIA TWP WEST UNION TWP WOOD RIVER TWP
HARLAN	ALBANY TWP ANTELOPE TWP EMERSON TWP MULLALLY TWP REPUBLICAN CITY TWP SAPPA TWP SPRING GROVE TWP WASHINGTON TWP	ALMA TWP ELDORADO TWP FAIRFIELD TWP PRAIRIE DOG TWP REUBEN TWP SCANDINAVIA TWP TURKEY CREEK TWP

PROPOSED DELETIONS TO CURRENT MUA LIST

NEBRASKA

COUNTY NAME

COUNTIES

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

VALLEY

ARCADIA TWP
ELYRIA TWP
ENTERPRISE TWP
GERANIUM TWP
LIBERTY TWP
NOBLE TWP
ORD TWP
VINTON TWP

DAVIS CREEK TWP
ELYRIA VILLAGE
EUREKA TWP
INDEPENDENT TWP
MICHIGAN TWP
ORD CITY
SPRINGDALE TWP
YALE TWP

MCD/CCD

BOX BUTTE

DORSEY PREC

BUFFALO

COLLINS TWP

SHELTON TWP

CHASE

IMPERIAL PREC

WAUNETA PREC

GAGE

WYMORE TWP

HALL

SOUTH LOUP TWP

KEITH

PAXTON PREC

LINCOLN

EAST HINMAN PREC

SUTHERLAND PREC

MORRILL

BRIDGEPORT CITY

CAMP CLARK PREC

OTOE

NORTH SYRACUSE PREC

PERKINS

LIBERTY PREC

NEVADA

EUREKA

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

NYE

BEATTY TWP
ROUND MOUNTAIN TWP

GABBS TWP
TONOPAH TWP

NEW HAMPSHIRE

MCD/CCD

ROCKINGHAM

EPPING TOWN

FREMONT TOWN

CENSUS TRACT

HILLSBORO

0013.00

PROPOSED DELETIONS TO CURRENT MUA LIST

NEW JERSEY

COUNTY NAME -----	COUNTIES -----	CENSUS TRACT -----					
CUMBERLAND		0402.00					
ESSEX		0013.00	0015.00	0018.00	0026.00	0027.00	0030.00
		0032.00	0034.00	0040.00	0057.00	0058.00	0062.00
		0063.00	0066.00	0067.00	0082.00	0083.00	0085.00
		0088.00	0089.00	0090.00	0092.00	0096.00	0105.00
		0111.00	0154.00	0168.00	0170.00	0185.00	
HUDSON		0017.00	0044.00	0051.00	0053.02	0155.00	0169.00
		0184.00	0193.00	0197.00			
MERCER		0001.00	0008.00	0009.00	0010.00	0011.00	0014.00
		0015.00	0016.00	0017.00	0013.00	0019.00	0020.00
		0021.00	0022.00				
MIDDLESEX		0045.00	0049.00	0053.00	0055.00	0057.00	0058.00
		0059.00					
SALEM		0213.00	0218.00				
UNION		0393.00					
WARREN		0311.00					

NEW MEXICO

	MCD/CCD IN PREVIOUSLY WHOLE COUNTIES -----					
COLFAX	RATON DIV					
	CENSUS TRACT IN PREVIOUSLY WHOLE COUNTIES -----					
CURRY	0002.00	0003.00	0006.00	0008.00		
OTERO	0002.00	0003.00	0004.00	0005.00	0006.00	0007.00
	0009.00					
	CENSUS TRACT -----					
BERNALILLO	0013.00	0014.00	0020.00	0042.00	0048.00	
DONA ANA	0015.00					

PROPOSED DELETIONS TO CURRENT MUA LIST

NEW YORK

COUNTY NAME -----	COUNTIES -----					
	MCD/CCD -----					
ALLEGANY	GROVE TOWN			WEST ALMOND TOWN		
CATTARAUGUS	HUMPHREY TOWN					
CAYUGA	CONQUEST TOWN					
CHENANGO	COVENTRY TOWN			GUILFORD TOWN		
	MC DONOUGH TOWN			OTSELIC TOWN		
	OXFORD TOWN			PRESTON TOWN		
	SNYRNA TOWN					
GREENE	PRATTSVILLE TOWN					
JEFFERSON	ALEXANDRIA TOWN			ANTWERP TOWN		
	CLAYTON TOWN			ELLISBURG TOWN		
	LORRAINE TOWN			LYME TOWN		
	ORLEANS TOWN			PHILADELPHIA TOWN		
	THERESA TOWN					
ST LAWRENCE	CLARE TOWN			CLIFTON TOWN		
	EDWARDS TOWN			FINE TOWN		
	HAMMOND TOWN			RUSSELL TOWN		
STEBEN	WAYNE TOWN					
	CENSUS TRACT -----					
ALBANY	0024.00					
BRONX	0205.00	0215.02	0378.00	0380.00	0392.00	
CHEMUNG	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00
	0009.00	0010.00	0011.00	0101.00	0102.00	0108.00
	0109.00					
ERIE	0013.01	0014.01	0025.01	0027.01	0032.01	0042.00
KINGS	0121.00	0563.00	1148.00			
MONROE	0090.00					
NEW YORK	0002.01	0002.02	0006.00	0008.00	0010.01	0010.02
	0012.00	0013.00	0014.01	0014.02	0015.01	0016.00
	0018.00	0020.00	0021.00	0022.01	0022.02	0025.00
	0027.00	0029.00	0030.01	0031.00	0032.00	0033.00
	0039.00	0041.00	0043.00	0045.00	0047.00	0049.00
	0051.00	0053.00	0062.00	0077.00	0112.02	0137.00
	0156.02	0162.00	0164.00	0170.00	0172.01	0172.02
	0174.01	0174.02	0178.00	0180.00	0182.00	0184.00
	0186.00	0188.00	0190.00	0192.00	0194.00	0197.02
	0201.02	0202.00	0207.02	0208.00	0209.02	0212.00
	0213.02	0214.00	0216.00	0217.02	0218.00	0221.02
	0224.00	0226.00	0227.01	0227.02	0231.01	0231.02
	0232.00	0234.00	0235.02	0236.00	0239.00	0243.02
ONONDAGA	0053.00	0168.00	0169.00			
OSWEGO	0203.02					
QUEENS	0184.01	0184.02	0186.00	0138.00	0190.00	0192.00
	0194.01	0194.02	0196.00	0198.00	0252.00	0260.00
	0262.00	0270.00	0272.00	0274.00	0278.00	0288.00
	0334.02	0788.00				
SUFFOLK	1803.00					
WESTCHESTER	0119.01					

PROPOSED DELETIONS TO CURRENT MUA LIST

NORTH CAROLINA

COUNTY NAME
-----COUNTIES
-----MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

EDGECOMBE

TWP 1 TARBORO
TWP 14 UPPER TOWN CREEKTWP 10 LOWER TOWN CREEK
TWP 9 OTTER CREEK

JACKSON

CANADA TWP
CULLOWHEE TWP
MOUNTAIN TWP
SAVANNAH TWP
SYLVA TWPCANBY FORK TWP
DILLSBORO TWP
RIVER TWP
SCOTT CREEK TWP
WEBSTER TWP

MOORE

TWP 2 BENSALAH
TWP 4 RITTERS
TWP 6 GREENWOOD
TWP 8 SAND HILLTWP 3 SHEFFIELDS
TWP 5 DEEP RIVER
TWP 7 MC NEILLS

SWAIN

CHARLESTON TWP

TRANSYLVANIA

BOYD TWP
CATHEYS CREEK TWP
EASTATOE TWP
LITTLE RIVER TWPBREVARD TWP
DUNNS ROCK TWP
HOGBACK TWP

WATAUGA

BALD MOUNTAIN TWP
BLUE RIDGE TWP
BRUSHY FORK TWP
ELK TWP
HEAT CAMP TWP
NORTH FORK TWPBLOWING ROCK TWP
BOONE TWP
COVE CREEK TWP
LAUREL CREEK TWP
NEW RIVER TWP
SHAWNEEHAW TWPCENSUS TRACT IN PREVIOUSLY WHOLE COUNTIES

DAVIDSON

0601.00 0602.00 0603.00 0604.00 0605.00 0606.00
0607.00 0608.00 0609.00 0610.00 0611.00 0612.00
0613.00 0615.00 0616.00 0617.00 0618.00 0619.00
0620.00

EDGECOMBE

0201.00 0202.00 0203.00 0205.00

MCD/CCD

AVERY

BEECH MOUNTAIN TWP

BURKE

UPPER CREEK TWP

HAYWOOD

CRABTREE TWP
IVY HILL TWPIRON DUFF TWP
JONATHANS CREEK TWP

PROPOSED DELETIONS TO CURRENT MUA LIST

NORTH CAROLINA

COUNTY NAME	MCD/CCD			
HENDERSON	HOOPERS CREEK TWP			
IREDELL	BETHANY TWP		NEW HOPE TWP	
	STATESVILLE TWP			
SURRY	BRYAN TWP		ELDORA TWP	
	MARSH TWP		SILAM TWP	
	SOUTH WESTFIELD TWP			
	CENSUS TRACT			
ALAMANCE	0214.00	0215.00		
BUNCOMBE	0005.00			
DURHAM	0009.00	0011.00	0012.01	0012.02
FORSYTH	0005.01			
GASTON	0316.00	0317.00		
GUILFORD	0110.00	0139.00	0141.00	0142.00 0146.00
WAKE	0011.00	0029.00		

NORTH DAKOTA

GRIGGS

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

RENVILLE	MOHALL DIV	SOUTH RENVILLE DIV
	MCD/CCD	
PEMBINA	CAVALIER DIV	CAVALIER SOUTH DIV
RANSOM	LISBON DIV	LISBON WEST DIV
RICHLAND	NORTHEAST RICHLAND DIV	
WILLIAMS	RAY DIV	WILLISTON DIV
	WILLISTON EAST DIV	WILLISTON WEST DIV

PROPOSED DELETIONS TO CURRENT MUA LIST

OHIO

COUNTY NAME
-----COUNTIES
-----MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

BROWN

CLARK TWP
GREEN TWP
PERRY TWP
PLEASANT TWPFRANKLIN TWP
LEWIS TWP
PIKE TWP
UNION TWPMCD/CCD

AUGLAIZE

CLAY TWP

DARKE

JACKSON TWP

VAN BUREN TWP

GUERNSEY

LIBERTY TWP

RICHLAND TWP

HARDIN

BUCK TWP

HENRY

MONROE TWP

LICKING

BOWLING GREEN TWP

PAULDING

BENTON TWP

CRANE TWP

SHELBY

CYNTHIAN TWP
WASHINGTON TWP

TURTLE CREEK TWP

TUSCARAWAS

MILL TWP

RUSH TWP

WASHINGTON

FAIRFIELD TWP

CENSUS TRACT

CUYAHOGA

1135.00 1136.00 1142.00 1166.00 1187.00 1192.00

FRANKLIN

0017.00

HAMILTON

0001.00 0018.00 0021.00 0023.00 0077.00 0080.00
0086.01 0096.02

LUCAS

0014.00 0022.00 0024.02 0026.00 0032.00 0033.00
0036.00 0047.02 0048.00 0051.00 0093.00 0094.00
0095.00 0096.00

MONTGOMERY

0001.00 0016.00 0017.00 0019.00 0020.00 0021.00
0022.00 0023.00 0025.00 0026.00 0027.00 0029.00
0031.00 0032.00 0033.00 0034.00 0035.00 0036.00
0037.00 0039.00 0041.00 0042.00 0044.00 0047.00
0052.00 0054.00 0062.00 0064.00

PUTNAM

0302.00 0303.00 0304.00 0305.00 0307.00 0308.00

SUMMIT

5019.00

PROPOSED DELETIONS TO CURRENT MUA LIST

OKLAHOMA

COUNTY NAME

COUNTIES

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

JACKSON

ALTUS DIV
ALTUS SOUTH DIVALTUS NORTH DIV
EAST JACKSON DIV

- OTTAWA

MIAMI DIV
PICHER-PEORIA DIVMIAMI RURAL DIV
WYANDOTTE DIV

PAWNEE

CLEVELAND DIV

POTTAWATOMIE

MAUD DIV
SHAWNEE NORTHWEST DIV
TECUMSEH DIVSHAWNEE NORTHEAST DIV
SHAWNEE WEST DIV

CENSUS TRACT IN PREVIOUSLY WHOLE COUNTIES

OSAGE

0101.00 0102.00 0103.00 0105.00 0107.00 0108.00

MCD/CCD

GARFIELD

COVINGTON DIV

KAY

KAW CITY DIV

CENSUS TRACT

COMANCHE

0002.00 0008.00 0010.00 0014.00 0015.00

OKLAHOMA

1004.00 1006.00 1018.00 1035.00 1043.00 1046.00
1088.04

OREGON

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

BAKER

BAKER DIV
HEREFORD DIV
WINGVILLE DIVHALFWAY DIV
HUNTINGTON DIV

GRANT

JOHN DAY DIV
SENECA DIV

PRAIRIE CITY DIV

MCD/CCD

CURRY

AGNESS DIV

HARNEY

DREWSEY DIV

JACKSON

PROSPECT DIV

CENSUS TRACT

LANE

0001.00

MULTNOMAH

0011.01 0052.00 0056.00

WASHINGTON

0334.00

PROPOSED DELETIONS TO CURRENT MUA LIST

PENNSYLVANIA

COUNTY NAME

COUNTIES

CAMERON
FOREST

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

CLEARFIELD

BLOOM TWP	BRADFORD TWP
BRADY TWP	BRISBIN BOROUGH
BURNSIDE BOROUGH	CHEST TWP
CHESTER HILL BOROUGH	CLEARFIELD BOROUGH
COALPORT BOROUGH	COOPER TWP
COVINGTON TWP	CURWENSVILLE BOROUGH
DECATUR TWP	DU BOIS CITY
FALLS CREEK BOROUGH (PART)	FERGUSON TWP
GIRARD TWP	GLEN HOPE BOROUGH
GOSHEN TWP	GRAHAM TWP
GRAMPIAN BOROUGH	GREENWOOD TWP
HUSTON TWP	IRVONA BOROUGH
KARTHAUS TWP	KNOX TWP
LAWRENCE TWP	LUMBER CITY BOROUGH
MAHAFFEY BOROUGH	MORRIS TWP
NEW WASHINGTON BOROUGH	NEWBURG BOROUGH
OSCEOLA BOROUGH	PIKE TWP
PINE TWP	RAMEY BOROUGH
SANDY TWP	TROUTVILLE BOROUGH
UNION TWP	WALLACETON BOROUGH
WESTOVER BOROUGH	

GREENE

CENTER TWP	CLARKSVILLE BOROUGH
CUMBERLAND TWP	DUNKARD TWP
FRANKLIN TWP	FREEPORT TWP
GILMORE TWP	GRAY TWP
GREENE TWP	GREENSBORO BOROUGH
JACKSON TWP	JEFFERSON BOROUGH
JEFFERSON TWP	MONONGAHELA TWP
MORGAN TWP	PERRY TWP
RICES LANDING BOROUGH	SPRINGHILL TWP
WASHINGTON TWP	WAYNE TWP

SNYDER

ADAMS TWP	BEAVER TWP
BEAVERTOWN BOROUGH	CENTRE TWP
FRANKLIN TWP	FREEBURG BOROUGH
JACKSON TWP	MC CLURE BOROUGH
MIDDLEBURG BOROUGH	MIDDLECREEK TWP
MONROE TWP	PENN TWP
SELINGSGROVE BOROUGH	SHAMOKIN DAM BOROUGH
SPRING TWP	UNION TWP
WASHINGTON TWP	WEST BEAVER TWP
WEST PERRY TWP	

WAYNE

BERLIN TWP	BETHANY BOROUGH
BUCKINGHAM TWP	CANAAN TWP
CHERRY RIDGE TWP	CLINTON TWP
DYBERRY TWP	LAKE TWP
LEBANON TWP	LEHIGH TWP
MANCHESTER TWP	OREGON TWP
PAUPACK TWP	PRESTON TWP
PROMPTON BOROUGH	SALEM TWP
SCOTT TWP	SOUTH CANAAN TWP
STARRUCCA BOROUGH	STERLING TWP
TEXAS TWP	

PROPOSED DELETIONS TO CURRENT MUA LIST

PENNSYLVANIA

COUNTY NAME -----	MCO/CCD -----	
ARMSTRONG	BOGGS TWP MADISON TWP PARKER CITY CITY	KITTANNING BOROUGH NAHONING TWP SOUTH BETHLEHEM BOROUGH
BEDFORD	BLOOMFIELD TWP HARRISON TWP WEST ST CLAIR TWP	COLERAIN TWP MONROE TWP WOODBURY TWP
CENTRE	BOGGS TWP LIBERTY TWP MILESBERG BOROUGH	CURTIN TWP MARION TWP WALKER TWP
CLARION	PERRY TWP	STRATTANVILLE BOROUGH
COLUMBIA	BENTON BOROUGH	CONYNGHAM TWP
CRAWFORD	ATHENS TWP CENTERVILLE BOROUGH RICHMOND TWP SPARTA TWP SPRING TWP	BEAVER TWP CONNEAUTVILLE BOROUGH ROCKDALE TWP SPARTANSBURG BOROUGH
JEFFERSON	BIG RUN BOROUGH HENDERSON TWP UNION TWP	BROOKVILLE BOROUGH RINGGOLD TWP
LYCOMING	LEWIS TWP	PICTURE ROCKS BOROUGH
MCKEAN	ELDRED TWP SERGEANT TWP	OTTO TWP
MERCER	LAKE TWP	
SCHUYLKILL	FOSTER TWP	FRAILEY TWP
TIOGA	CHARLESTON TWP WESTFIELD BOROUGH	CHATHAM TWP
UNION	HARTLEY TWP LIMESTONE TWP	LEWISBURG BOROUGH
VENANGO	PINEGROVE TWP	PLUM TWP
WYOMING	FALLS TWP	

PROPOSED DELETIONS TO CURRENT MUA LIST

PENNSYLVANIA

COUNTY NAME	CENSUS TRACT					
ALLEGHENY	0508.00	0707.00	0803.00	0808.00	1207.00	1410.00
	1601.00	2502.00	2503.00	2505.00	4031.00	4631.00
	4832.00	4865.00	5082.00	5133.00	5141.00	5508.00
	5602.00					
BEAVER	6013.00	6015.00	6021.00	6028.00	6041.00	6046.00
BERKS	0019.00	0024.00				
DAUPHIN	0206.00					
DELAWARE	4052.00	4056.00	4057.00	4058.00	4059.00	
ERIE	0003.00	0009.00	0014.00	0115.00	0116.00	0117.00
	0122.00					
PHILADELPHIA	0003.00	0015.00	0020.00	0031.00	0077.00	0078.00
	0057.00	0091.00	0093.00	0094.00	0106.00	0107.00
	0110.00	0122.00	0134.00	0144.00	0157.00	0166.00
	0167.00	0168.00	0174.00	0207.00	0208.00	0232.00
	0233.00	0246.00	0283.00	0301.00	0307.00	
SOMERSET	0215.00	0216.00	0217.00			
WASHINGTON	7210.00	7751.00	7753.00	7921.00	7957.00	

PUERTO RICO

HUMACOA

RHODE ISLAND

BRISTOL	0305.00	0307.00				
PROVIDENCE	0004.00	0005.00	0006.00	0011.00	0026.00	0027.00
	0149.00	0160.00	0172.00			

SOUTH CAROLINA

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

KERSHAW

CAMDEN DIV
ELGIN DIVDEKALB DIV
MT ZION DIV

NEWBERRY

NEWBERRY DIV
POMARIA DIV
WHITMIRE DIVNEWBERRY SOUTH DIV
PROSPERITY DIV

CENSUS TRACT

CHARLESTON	0001.00	0006.00				
GREENVILLE	0024.00	0039.00	0040.00	0041.00		
RICHLAND	0005.00	0007.00	0009.00	0015.00	0019.00	0020.01
	0021.00	0105.02	0107.01	0117.01	0117.02	0118.00
	0119.02	0120.00				
SPARTANBURG	0201.00	0206.00	0207.00	0211.00	0212.00	0213.00
	0214.00	0215.00	0219.00	0220.00	0223.00	0224.00
	0226.00	0232.00				

PROPOSED DELETIONS TO CURRENT HUA LIST

SOUTH DAKOTA

COUNTY NAME

COUNTIES

JACKSON
WALWORTH

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

BRULE

AMERICA TWP
CHAMBERLAIN CITY
CLEVELAND TWP
GRANDVIEW TWP
KIMBALL TWP
OLA TWP
PLEASANT GROVE TWP
PUKWANA TOWN
RED LAKE TWP
SMITH TWP
UNION TWP
WEST POINT TWP
WILLOW LAKE TWPBRULE TWP
CHAMBERLAIN TWP
EAGLE TWP
HIGHLAND TWP
LYON TWP
PLAINFIELD TWP
PLUMMER TWP
PUKWANA TWP
RICHLAND TWP
TORREY LAKE TWP
WALDRO TWP
WILBUR TWP

FALL RIVER

ARDMORE TOWN
COTTONWOOD TWP
DUDLEY TWP
HARMONY TWP
LOOMER TWP
PROVO TWP
SLIM BUTTE TWP
UNORG TERR OF SOUTHWEST FAARGENTINE TWP
DRYDEN TWP
EDGEMONT CITY
LINESTONE TWP
OELRICHS TOWN
ROBINS TWP
UNORG TERR OF NORTHEAST FA

MEADE

EAGLE TWP
LAKESIDE TWP
UNION TWP
UPPER RED OWL TWPHOWARD TWP
STURGIS CITY
UNORG TERR OF BLACKHAWK-PI

MCD/CCD

LAWRENCE

DEADWOOD CITY
UNORG TERR OF NORTH LAWRENSPEARFISH CITY
UNORG TERR OF SOUTH LAWREN

PROPOSED DELETIONS TO CURRENT MUA LIST

TENNESSEE

COUNTY NAME
-----COUNTIES
-----MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

BRADLEY	CHARLESTON DIV SOUTHEAST BRADLEY DIV	CLEVELAND RURAL DIV WEST BRADLEY DIV
COFFEE	TULLAHOMA DIV	TULLAHOMA NORTH DIV
DICKSON	BURNS-WHITE BLUFF DIV TENNESSEE CITY DIV	DICKSON DIV VANLEER DIV
SEVIER	BEECH SPRINGS DIV GATLINBURG DIV WEAR VALLEY DIV	CHILHOWEE DIV SEVIERVILLE DIV
WASHINGTON	BOCNE DIV JOHNSON CITY NORTH DIV JONESBORO DIV	JOHNSON CITY DIV JOHNSON CITY SOUTH DIV SULPHUR SPRINGS DIV
WILLIAMSON	BRENTWOOD DIV FRANKLIN DIV	FAIRVIEW DIV NOLENSVILLE DIV

MCD/CCD

MAURY	LOWER RUTHERFORD CREEK DIV SPRING HILL DIV	POPLAR TOP DIV UPPER BIG BIGBY DIV
RUTHERFORD	EAGLEVILLE DIV	

CENSUS TRACT

DAVIDSON	0120.00	0136.00	0137.00	0139.00	0140.00	0143.00
	0160.00	0161.00	0163.00			
HAMILTON	0001.00	0002.00	0006.00	0014.00	0024.00	
SHELBY	0007.00	0069.00	0073.00	0105.00		
SUMNER	0207.00					

PROPOSED DELETIONS TO CURRENT HUA LIST

TEXAS

COUNTY NAME

COUNTIES

 CHAMBERS
 DALLAM
 KING
 LOVING

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

CONCHO

EOLA-PAINT ROCK DIV

JACK

JACKSBORO DIV

PERRIN DIV

WHARTON

EL CAMPO DIV

NENGULF DIV

MCD/CCD

ANDREWS

ANDREWS SOUTH DIV

PALO PINTO

PALO PINTO-SANTO DIV

TITUS

COOKVILLE DIV

TALCO DIV

CENSUS TRACT

BEXAR

1203.00	1303.00	1311.00	1403.00	1406.00	1418.00
1501.00	1504.00	1507.00	1508.00	1510.00	1521.00
1609.00	1610.00	1620.00	1708.00	1711.00	1907.00

DALLAS

0002.01	0002.02	0010.00	0011.01	0012.00	0017.01
0021.00	0024.00	0025.00	0026.00	0027.02	0029.00
0031.02	0032.01	0032.02	0033.00	0034.00	0035.00
0036.00	0037.00	0038.00	0039.01	0040.00	0043.00
0045.00	0046.00	0048.00	0049.00	0050.00	0051.00
0053.00	0054.00	0055.00	0056.00	0057.00	0069.00
0036.00	0067.01	0067.02	0068.00	0069.00	0092.01
0092.02	0093.02	0113.00	0114.01	0165.01	0167.01
0181.04					

ECTOR

0003.00 0011.00 0015.00

GALVESTON

1232.00

GRAYSON

0001.00 0005.00 0011.00

GUADALUPE

2104.00 2106.00 2108.00

KAUFMAN

0501.00	0502.00	0504.00	0506.00	0508.00	0510.00
0511.00	0512.00	0513.00			

LUBBOCK

0002.02 0003.00 0006.02 0107.00

MONTGOMERY

0909.00

PARKER

0401.00 0402.00 0403.00

POTTER

0106.00 0111.00 0121.00

ROCKWALL

0403.00 0404.00

SMITH

0002.02 0006.00 0015.00 0017.00 0021.00

TARRANT

0038.00 0044.00

TRAVIS

0013.02 0023.02

WICHITA

0107.00	0108.00	0110.00	0111.00	0113.00	0116.00
0137.00					

PROPOSED DELETIONS TO CURRENT MUA LIST

UTAH

COUNTY NAME

COUNTIES

GARFIELD

VERMONT

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

ORLEANS

ALBANY TOWN
CHARLESTON TOWN
CRAFTSBURY TOWN
GREENSBORO TOWN
IRASBURG TOWN
MORGAN TOWN
NEWPORT TOWN
WESTMORE TOWNBARTON TOWN
COVENTRY TOWN
DERBY TOWN
HOLLAND TOWN
JAY TOWN
NEWPORT CITY
WESTFIELD TOWN

MCD/CCD

BENNINGTON

WINHALL TOWN

ORANGE

CORINTH TOWN

VIRGINIA

GALAX CITY
JAMES CITY

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

CULPEPER

CATALPA DIST
STEVENSBURG DIST

SALEM DIST

FAUQUIER

CEDAR RUN DIST
SCOTT DIST

CENTER DIST

GRAYSON

ELK CREEK DIST
PROVIDENCE DIST

OLD TOWN DIST

SMYTH

ATKINS DIST
NORTH FORK DIST
ROYAL OAK DISTCHILHOWIE DIST
PARK DIST
SALTVILLE DIST

WYTHE

BLACK LICK DIST
FORT CHISHELL DIST
WEST WYTHEVILLE DISTEAST WYTHEVILLE DIST
LEAD MINES DIST

MCD/CCD

BEDFORD

LAKES DIST

DINWIDDIE

HAMOZINE DIST
SAPONY DIST

ROWANTY DIST

PRINCE GEORGE

BRANDON DIST

TEMPLETON DIST

ROCKBRIDGE

BUFFALO DIST

KERRS CREEK DIST

CENSUS TRACT

CAMPBELL

0208.00 0209.00

NEWPORT NEWS CITY

0301.00 0303.00 0307.00 0308.00

NORFOLK CITY

0009.00 0027.00 0028.00 0034.00 0039.00 0049.00
0050.00 0065.02

RICHMOND CITY

0204.00 0405.00 0408.00 0409.00 0410.00

PROPOSED DELETIONS TO CURRENT MUA LIST

WASHINGTON

COUNTY NAME

COUNTIES

SAN JUAN

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

COWLITZ

DIV 1

DIV 2

DIV 4

DIV 5

DIV 6

DIV 7

DIV 8

DIV 9

KELSO DIV

LONGVIEW DIV

FERRY

DIV 1

DIV 3

DIV 4

GRAYS HARBOR

ABERDEEN DIV

DIV 1

DIV 11

DIV 12

DIV 13

DIV 3

DIV 4

DIV 5

DIV 6

DIV 8

DIV 9

HOQUIAM DIV

OKANOGAN

DIV 1

DIV 10

DIV 11

DIV 12

DIV 13

DIV 14

DIV 16

DIV 2

DIV 3

DIV 4

DIV 5

DIV 6

DIV 7

DIV 8

DIV 9

OMAK DIV

MCD/CCD

ADAMS

DIV 10

DIV 2

DIV 8

ASOTIN

CLARKSTON DIV

JEFFERSON

DIV 4

DIV 5

SKAGIT

DIV 1

YAKIMA

DIV 17

DIV 19

TOPPENISH DIV

CENSUS TRACT

KING

0107.00 0265.00

PIERCE

0617.00

PROPOSED DELETIONS TO CURRENT MUA LIST

WEST VIRGINIA

COUNTY NAME
-----COUNTIES
-----MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

GREENBRIER

FORT SPRING DIST
IRISH CORNER DIST
MEADOW BLUFF DISTFRANKFORD DIST
LEWISBURG DIST
WHITE SULPHUR DIST

MONROE

RED SULPHUR DIST
UNION DIST

SPRINGFIELD DIST

MORGAN

ALLEN DIST
ROCK GAP DISTBATH DIST
SLEEPY CREEK DIST

POCAHONTAS

EDRAY DIST
HUNTERSVILLE DIST

GREENDANK DIST

MCD/CCD

RANDOLPH

DRY FORK DIST

NEW INTEREST DIST

CENSUS TRACT

CABELL

0005.00 0008.00 0016.00

KANAWHA

0008.00 0012.00 0109.00 0112.00 0121.00 0122.00
0123.00 0126.00 0132.00

WOOD

0109.00

WISCONSIN

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

LAFAYETTE

BELMONT TOWN
BENTON VILLAGE
CUBA CITY CITY (PART)
FAYETTE TOWN
GRATIOT VILLAGE
LAMONT TOWN
SEYHOUR TOWN
SOUTH WAYNE VILLAGE
WHITE OAK SPRINGS TOWN
WIOTA TOWNBELMONT VILLAGE
BLANCHARD TOWN
ELK GROVE TOWN
GRATIOT TOWN
KENDALL TOWN
MONTICELLO TOWN
SHULLSBURG TOWN
WAYNE TOWN
WILLOW SPRINGS TOWN

TAYLOR

AURORA TOWN
CHELSEA TOWN
DEER CREEK TOWN
GILMAN VILLAGE
GREENWOOD TOWN
HANNEL TOWN
LITTLE BLACK TOWN
MAPLEHURST TOWN
MEDFORD CITY
MOLITOR TOWN
RIB LAKE TOWN
STETSONVILLE VILLAGE
WESTBORO TOWNBROWNING TOWN
CLEVELAND TOWN
FORD TOWN
GOODRICH TOWN
GROVER TOWN
JUMP RIVER TOWN
LUBLIN VILLAGE
MC KINLEY TOWN
MEDFORD TOWN
PERSHING TOWN
ROOSEVELT TOWN
TAFT TOWN

PROPOSED DELETIONS TO CURRENT MUA LIST

WISCONSIN

COUNTY NAME

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

WASHBURN

BARRETT TOWN
 BEAVER BROOK TOWN
 BIRCHWOOD VILLAGE
 CASEY TOWN
 CRYSTAL TOWN
 FROG CREEK TOWN
 LONG LAKE TOWN
 MINONG TOWN
 SARONA TOWN
 SPOONER TOWN
 STINNETT TOWN
 TREGO TOWN

BASS LAKE TOWN
 BIRCHWOOD TOWN
 BROOKLYN TOWN
 CHICOG TOWN
 EVERGREEN TOWN
 GULL LAKE TOWN
 MADGE TOWN
 MINONG VILLAGE
 SPOONER CITY
 SPRINGBROOK TOWN
 STONE LAKE TOWN

MCD/CCD

COLUMBIA

WYOCENA VILLAGE

CRAWFORD

EASTMAN VILLAGE
 HANEY TOWN
 MOUNT STERLING VILLAGE
 WAUZEKA TOWN

FERRYVILLE VILLAGE
 LYNXVILLE VILLAGE
 STEUBEN VILLAGE
 WAUZEKA VILLAGE

DOOR

BAILEYS HARBOR TOWN

WASHINGTON TOWN

GRAIT

BAGLEY VILLAGE
 WOODMAN TOWN

MOUNT HOPE VILLAGE

IOWA

ARENA VILLAGE
 REWEY VILLAGE

AVOCA VILLAGE

JACKSON

BLACK RIVER FALLS CITY
 HIXTON VILLAGE
 MILLSTON TOWN

CITY POINT TOWN
 KNAPP TOWN
 TAYLOR VILLAGE

LANGLADE

AINSWORTH TOWN
 PARRISH TOWN
 UPHAM TOWN

ELCHO TOWN
 SUMMIT TOWN

MANITOWOC

REEDSVILLE VILLAGE

MONROE

CASHION VILLAGE
 KENDALL VILLAGE
 NORWALK VILLAGE
 WILTON VILLAGE

GRANT TOWN
 NEW LYME TOWN
 SCOTT TOWN

ONEIDA

ENTERPRISE TOWN

SCHOEPKE TOWN

PIERCE

ELMWOOD VILLAGE

UNION TOWN

TREMPEALEAU

CALEDONIA TOWN
 ETTRICK VILLAGE
 PIGEON FALLS VILLAGE

ETTRICK TOWN
 GALESVILLE CITY
 UNITY TOWN

WALWORTH

BLOOMFIELD TOWN
 GENEVA TOWN
 WILLIAMS BAY VILLAGE

FONTANA ON GENEVA LAKE VIL
 SHARON TOWN

CENSUS TRACT

MILWAUKEE

0040.00	0083.00	0101.00	0103.00	0105.00	0109.00
0111.00	0113.00	0114.00	0118.00	0120.00	0121.00
0135.00	0136.00	0138.00	0140.00	0146.00	

RACINE

0001.00

PROPOSED DELETIONS TO CURRENT MUA LIST

WYOMING

COUNTY NAME

COUNTIES

BIG HORN
CAMPELL
CONVERSE
JOHNSON
LARAMIE
NIODRAPA
WASHAKIE

MCD/CCD

ROCK RIVER DIV

ALBANY

HANNA DIV

CARDON

SHOSHONI DIV

FREMONT

SHERIDAN DIV

SHERIDAN

UPTON DIV

NESTON

OUTLYING AREAS

MCD/CCD IN PREVIOUSLY WHOLE COUNTIES

AGANA HEIGHTS
BARRIGADA
MANGILAO
TAMUNING

ASAN
DEDEDO
SINAJUNA
YIGO

GUAM

[FR Doc. 81-31150 Filed 10-27-81; 8:45 am]

BILLING CODE 4110-84-C

Wednesday
October 28, 1981

Part IV

**Department of
Education**

**Library Career Training Program
(Title II-B HEA)**

DEPARTMENT OF EDUCATION

34 CFR Part 776

Library Career Training Program (Title II-B HEA)

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: In a notice published on March 27, 1981, in the *Federal Register* (46 FR 19000), the Secretary announced his intention to review and, as appropriate, amend certain regulations in an effort to comply with the requirements of Executive Order 12291 and its overall objective to reduce regulatory burden. As a result of this review, the Secretary proposes to revise the final regulations for the Library Career Training Program. These revisions restructure the current regulations, reduce program requirements, and implement statutory changes made by the Education Amendments of 1980.

DATES: Comments must be received on or before December 14, 1981.

ADDRESS: Comments should be addressed to Frank A. Stevens, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3622, ROB-3, Washington, D.C. 20202-3320.

FOR FURTHER INFORMATION CONTACT: Frank A. Stevens, telephone: (202) 245-9530.

SUPPLEMENTARY INFORMATION:

Background

The Library Career Training Program provides financial assistance to institutions of higher education and library agencies for fellowships, institutes, and traineeships in the area of library and information science. The program has sought to provide training opportunities for minorities, the economically disadvantaged, handicapped individuals, and women, and to satisfy the library and information science needs of underserved groups.

On December 24, 1980, final regulations for this program were published in the *Federal Register* (45 FR 85430) to implement statutory changes made by the Education Amendments of 1980. However, those regulations did not provide an opportunity for public comment because of insufficient time to allow it and still have regulations in effect in early 1981 in order to make awards. The Secretary indicated in the preamble to these regulations his intention to revise them, after receiving public comment, for implementation in fiscal year 1982.

Changes in These Regulations

These proposed regulations are based on the Education Amendments of 1980, Pub. L. 96-374. Major revisions to the existing sections and new sections are as follow:

- § 776.4 *Definitions that apply to this program.* Definitions for "fellowship", "institute", and "traineeship" have been clarified. "Summer session", "underrepresented," and "underserved" are new terms.

- § 776.11 *Program objectives.* This section modifies the existing language and emphasizes training library personnel in new techniques of information transfer and communication technology.

- § 776.20 *Application instructions.* This section clarifies the application procedures for fellowship projects and budget preparation for all projects.

- §§ 776.31, 776.32, and 776.33 *Selection criteria for fellowship, institute, and traineeship applications.* Each of these sections incorporates the general selection criteria of § 776.34 of the current regulations and modifies the language of the applicable special selection criteria sections in the current regulations. New selection criteria for the three types of projects are "project description", "participant selection", and "conformance with program objectives". Point values for each criterion have been changed.

- § 776.34 *Distribution of funds.* This is a new section.

- § 776.50 *Participant eligibility and selection.* This section simplifies and combines the requirements presented in §§ 776.50-776.53 of the current regulations concerning participant selection and eligibility.

- The following sections of the current regulations concerning funding priorities are deleted: §§ 776.31-776.33.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations include nonprofit organizations and small institutions of higher education. The regulations contain paperwork compliance and reporting requirements, but these will not have a significant economic impact on the small entities participating in the program.

Invitation to Comment

General Comments

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

Information From Institutions of Higher Education

The Secretary requests comments on whether these proposed regulations would require institutions of higher education to transmit information that is already being gathered by or is available from any other agency or authority of the United States.

Burden Reduction

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall objective of reducing regulatory burden, public comment is also invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations, especially with regard to paperwork and compliance requirements.

Address for Comments

Written comments and recommendations may be sent to the address given at the beginning of this preamble. The Secretary will consider in the development of the final regulations all comments received on or before December 14, 1981.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Regional Office Building 3, Room 3622, 7th and D Streets, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week, except Federal holidays.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations. (20 U.S.C. 1021, 1032).

Dated: October 21, 1981.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.036, Library Career Training Program)

The Secretary proposes to revise Part 776 of the Code of Federal Regulations to read as follows:

PART 776—LIBRARY CAREER TRAINING PROGRAM

Subpart A—General

Sec.

776.1 The Library Career Training Program.

776.2 Eligible parties.

776.3 Regulations that apply to this program.

776.4 Definitions that apply to this program.

Subpart B—Kinds of Projects for Which Grants Are Made

776.10 Types of projects.

Sec.

776.11 Program objectives.

776.12 Project duration.

Subpart C—How To Apply for a Grant

776.20 Application instructions.

Subpart D—How the Secretary Makes a Grant

776.30 How the Secretary evaluates applications.

776.31 Selection criteria for fellowship applications.

776.32 Selection criteria for institute applications.

776.33 Selection criteria for traineeship applications.

776.34 Distribution of funds.

Subpart E—Conditions That Must Be Met by a Grantee

776.40 Allowable costs.

776.41 Fellowship project costs.

776.42 Institute project costs.

776.43 Traineeship project costs.

776.44 Travel allowances.

776.45 Allowances for dependents.

776.46 Tuition and fees.

776.47 Notification of the State agency.

Subpart F—The Administrative Responsibilities of a Grantee

776.50 Participant eligibility and selection.

776.51 Substitutions.

776.52 Payments to participants.

776.53 Payment adjustments.

776.54 Assistance under other Federal programs.

Authority: Part B, Title II, Higher Education Act of 1965, as amended by Education Amendments of 1980, Pub. L. 96-374, 94 Stat. 1383 (20 U.S.C. 1021).

Subpart A—General

§ 776.1 The Library Career Training Program.

The Secretary awards grants and contracts for the purpose of—

(a) Training persons in librarianship through fellowships, institutes, or traineeships.

(b) Establishing, developing, and expanding programs of library and information science, including new techniques of information transfer and communication technology.

(Secs. 201 and 222 of the Act, 20 U.S.C. 1021, 1032)

§ 776.2 Eligible parties.

Eligible applicants are—

(a) An institution of higher education.

(b) A library organization or agency.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.3 Regulations that apply to this program.

(a) The following regulations apply to grants under the Library Career Training Program:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of grants), 34 CFR Part 75 (Direct Grant Programs), and 34 CFR

Part 77 (Definitions), with the exception that § 776.13 modifies EDGAR § 75.590 (Evaluation by the grantee) by specifying that the required evaluation be ongoing and objective; and

(2) The regulation in this Part 776.

(b) A different set of regulations apply to contracts made under this program. (See EDGAR, 34 CFR 75.4 Education Department contracts.)

(20 U.S.C. 3474)

§ 776.4 Definitions that apply to this program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Parts 74 and 77:

Applicant

Application

Award

Contract (includes definition of Subcontract

EDGAR

Grant

Grantee

Local educational agency

Private

Project

Project period

Public

Secretary

State educational agency

(b) *Other definitions.* The following additional definitions apply to this part:

"Act" means the Higher Education Act of 1965, as amended.

"Department" means the Department of Education.

"Dependent" means any individual as described in paragraphs (1), (2), or (3) below who will receive more than half of his or her support from a project participant during the course of a project conducted under this program:

(1) any individual related by blood or marriage to the participant;

(2) any legally adopted child or a child placed for adoption in the participant's home by a licensed child-placing agency; and

(3) any other individual living in the participant's household, provided the relationship of the two individuals is not illegal.

"Fellowship" means an award to an individual who has been accepted for admission to an institution of higher education and who is or will be enrolled full-time in a graduate or undergraduate program of library or information science. The purpose of the award is to assist recipients financially as they work toward or complete the requirements for a specific degree in some aspect of librarianship.

"Institute" means a specialized group training project in librarianship that:

(1) is separate from the regular academic program of the applicant;

(2) has an innovative curriculum;

(3) may or may not provide academic credit;

(4) either provides persons with the skills needed to enter the library and information science field or provides library and information science personnel—including library educators—an opportunity to strengthen or increase their competencies; and

(5) may be long term or short term.

"Institution of higher education" means the type of institution defined by section 1201 of the Act.

"Librarianship" means the principles and practices of library and information science, including the acquisition, organization, storage, retrieval, and dissemination of information, and reference and research use of library and other information resources.

"Library organization or agency" means a public or private organization or agency that provides library services or programs.

"Participant" means a person who is enrolled in a training project funded under this part.

"State agency" means the state agency designated under section 1203 of the Act.

"Summer session" means the academic term or terms of an institution of higher education, as advertised in its catalog, that usually take place during the summer months.

"Traineeship" means a training project in librarianship that:

(1) is separate from the regular academic program of the applicant;

(2) is designed to meet the individual needs of mid-level library and information science professionals;

(3) provides individualized instruction, usually through internship; and

(4) may include academic instruction.

"Underrepresented groups" means groups of persons who have been traditionally underrepresented either at the highest levels or at other levels of the library and information science profession. These groups include racial and ethnic minorities, economically disadvantaged persons, handicapped persons, and women.

"Underserved groups" means groups of persons who have been traditionally underserved by the library and information science profession, such as racial and ethnic minorities, economically disadvantaged persons, handicapped persons, and rural populations.

(Secs. 201 and 222 of the Act, 20 U.S.C. 1021, 1032, 3474)

Subpart B—Kinds of Projects for Which Grants Are Made

§ 776.10 Types of projects.

A grantee may conduct a fellowship project, an institute project, and a traineeship project.

(Secs. 201 and 222 of the Act, 20 U.S.C. 1021, 1032)

§ 776.11 Program objectives.

The Secretary encourages applicants to design projects that will accomplish one or more of the following objectives—

- (a) Increase opportunities for members of underrepresented groups to obtain training in librarianship.
- (b) Increase opportunities for professional advancement for members of underrepresented groups by providing training beyond the master's degree level.
- (c) Train or retrain library personnel to serve the interests of traditionally underserved groups.
- (d) Train or retrain library personnel in new techniques of—
 - (1) Information acquisition, transfer, and communication technology; and
 - (2) Planning, evaluation, and dissemination.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.12 Project duration.

- (a) A fellowship or long-term institute project must provide at least one academic year but not more than 12 months of training.
- (b) A short-term institute project must provide at least one week but usually not more than six weeks of training.
- (c) A traineeship project may not exceed 12 months.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

Subpart C—How to Apply for a Grant

§ 776.20 Application instructions.

- (a) An applicant may submit applications for fellowship, institute, and traineeship projects.
- (b) An applicant may request any number of fellowships at any number of degree levels in a single application.
- (c) An applicant shall specify the amount to be paid to participants for stipends. (See §§ 776.41–776.43.)
- (d) An applicant shall estimate the amount needed for travel and dependency allowances. (See §§ 776.44 and 776.45.)

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

Subpart D—How the Secretary Makes a Grant

§ 776.30 How the Secretary evaluates applications.

- (a) For a fellowship project—
 - (1) The Secretary evaluates an application on the basis of the criteria in § 776.31 and awards up to 100 possible points for these criteria; and
 - (2) The Secretary may evaluate independently each fellowship level

included in an application and will announce his intention to do so in an application notice.

(b) The Secretary evaluates an application for an institute project on the basis of the criteria in § 776.32 and awards up to 100 possible points for these criteria.

(c) The Secretary evaluates an application for a traineeship project on the basis of the criteria, in § 776.33 and awards up to 100 possible points for these criteria.

(d) The maximum score for each criterion is indicated in parentheses.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.31 Selection criteria for fellowship applications.

- (a) *Project description.* (10 points)
 - (1) The Secretary reviews each application for information that shows the quality of the applicant's project.
 - (2) The Secretary looks for information that shows—
 - (i) The project objectives are clearly stated, realistic, and satisfy a current training need;
 - (ii) The required courses meet standards that are recognized by the library and information science profession; and
 - (iii) The extent to which the student field experience component (if included) is well designed.

(b) *Plan of operation.* (15 points)

- (1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

- (2) The Secretary looks for information that shows—
 - (i) High quality in the design of the project;
 - (ii) An effective plan of management that insures proper and efficient administration of the project;
 - (iii) A clear description of how the objectives of the project relate to the purpose of the program;
 - (iv) The way the applicant plans to use its resources and personnel to achieve each objective; and
 - (v) A clear description of how the applicant will provide equal access and treatment of eligible project participants who are members of groups that have been traditionally underrepresented, such as—members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(c) *Quality of key personnel.* (7 points)

- (1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.
- (2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (2) (i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(d) *Participant selection.* (15 points)

(1) The Secretary reviews each application for information that shows the method of participant selection.

(2) The Secretary looks for information that shows—

(i) The participants will be selected in conformance with program objectives (see § 776.11); and

(ii) The applicant's admissions standards for participation are as high as they are for other students in the library education program.

(e) *Applicant characteristics.* (20 points)

(1) The Secretary reviews each application for information that shows the applicant's commitment to library and information science education.

(2) The Secretary looks for information that shows—

(i) The applicant's catalog adequately describes the library education program in which participants will be enrolled;

(ii) The amount the applicant spends per student for education in librarianship is comparable to that of other library education programs with a similar student enrollment and curriculum;

(iii) The ratio of degrees awarded to enrollment in the applicant's library education program is comparable to that of other library education programs;

(iv) The ratio of requested fellowships to other fellowships and scholarships in librarianship supported by the applicant is comparable to that of other library education programs; and

(v) The academic level of the project is appropriate to the applicant's capabilities or experience.

(f) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(g) *Evaluation plan.* (5 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

Cross reference.—See EDGAR 34 CFR 75.590 (Evaluation by the grantee).

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(h) *Adequacy of resources.* (3 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(i) *Conformance with program objectives.* (20 points)

The Secretary reviews each application for information that shows the project will achieve one or more of the following program objectives:

(1) Increase opportunities for members of underrepresented groups to obtain training in librarianship;

(2) Increase opportunities for professional advancement for members of underrepresented groups by providing training beyond the master's degree level;

(3) Train library personnel to serve the interests of traditionally underserved groups; and

(4) Train library personnel in the new techniques of—

(i) Information acquisition, transfer, and communication technology; or

(ii) Planning, evaluation, and dissemination.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.32 Selection criteria for institute applications.

(a) *Project description.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the applicant's project.

(2) The Secretary looks for information that shows—

(i) The subject matter of the project is significant, of current interest to the library and information science community, well described, appropriate for an institute, and is not duplicated in the applicant's regular academic curriculum;

(ii) The project duration is appropriate for presenting the subject matter;

(iii) The project content satisfies educational standards of the library and information science profession;

(iv) The blend of theoretical and practical training is suitable to the subject matter and the needs of the participants; and

(v) The training methods are innovative and imaginative.

(b) *Plan of operation.* (12 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(c) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (2) (i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally

underrepresented, such as—members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(d) *Participant selection.* (10 points)

(1) The Secretary reviews each application for information that shows the method of participant selection.

(2) The Secretary looks for information that shows—

(i) Participants will be selected according to their experience, current responsibilities, and training needs; and

(ii) The number of participants is appropriate to the training methods and project resources.

(e) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (8 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

Cross reference.—See EDGAR, 34 CFR 75.590 (Evaluation by the grantee).

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(g) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(h) *Conformance with program objectives.* (20 points)

The Secretary reviews each application for information that shows the project will achieve one or more of the following program objectives;

- (1) Increase opportunities for members of underrepresented groups to obtain training in librarianship;
 - (2) Increase opportunities for professional advancement for members of underrepresented groups by providing training beyond the master's degree level;
 - (3) Train library personnel to serve the interests of traditionally underserved groups; and
 - (4) Train library personnel in the new techniques of—
 - (i) Information acquisition, transfer, and communication technology; or
 - (ii) Planning, evaluation, and dissemination.
- (i) *Project effectiveness.* (10 points)
- (1) The Secretary reviews each application for information that shows the effectiveness of the project.
- (2) The Secretary looks for information that shows—
- (i) The project will increase the number of librarians with specialized skills;
 - (ii) The project includes plans for how innovative results and materials could be disseminated to other institutions or agencies; and
 - (iii) The likelihood that project results and materials will be replicated.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.33 Selection criteria for traineeship applications.

- (a) *Project description.* (15 points)
- (1) The Secretary reviews each application for information that shows the quality of the applicant's project.
- (2) The Secretary looks for information that shows—
- (i) The training needs to be met by the project are significant, of current interest to the library and information science community, and well described;
 - (ii) The extent to which project activities are designed to meet the individual needs of each participant; and
 - (iii) The extent to which other library agencies or institutions will cooperate with the applicant in providing appropriate and high quality internship opportunities.
- (b) *Plan of operation.* (20 points)
- (1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.
- (2) The Secretary looks for information that shows—
- (i) High quality in the design of the project;
 - (ii) An effective plan of management that insures proper and efficient administration of the project;

- (iii) A clear description of how the objectives of the project relate to the purpose of the program;
 - (iv) The way the applicant plans to use its resources and personnel to achieve each objective; and
 - (v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—members of racial or ethnic minority groups, women, handicapped persons, and the elderly.
- (c) *Quality of key personnel.* (7 points)
- (1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.
- (2) The Secretary looks for information that shows—
- (i) The qualifications of the project director (if one is to be used);
 - (ii) The qualifications of each of the other key personnel to be used in the project;
 - (iii) The time that each person referred to in paragraphs (2) (i) and (ii) of this section plans to commit to the project; and
 - (iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented such as—members of racial or ethnic minority groups, women, handicapped persons, and the elderly.
- (3) To determine the qualifications of a person the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.
- (d) *Participant selection.* (15 points)
- (1) The Secretary reviews each application for information that shows the method of participant selection.
- (2) The Secretary looks for information that shows—
- (i) Participants will be selected on the basis of their stated career goals and on their potential for high level advancement and continued professional growth within the field of library and information science; and
 - (ii) There are more internship opportunities available than the proposed number of participants.
- (e) *Budget and cost effectiveness.* (5 points)
- (1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.
- (2) The Secretary looks for information that shows—

- (i) The budget for the project is adequate to support the project activities; and
 - (ii) Cost are reasonable in relation to the objectives of the project.
- (f) *Evaluation plan.* (10 points)
- (1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.
- Cross reference*—See EDGAR 34 CFR 75.590 (Evaluation by the grantee).
- (2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.
- (g) *Adequacy of resources.* (3 points)
- (1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.
- (2) The Secretary looks for information that shows—
- (i) The facilities that the applicant plans to use are adequate; and
 - (ii) The equipment and supplies that the applicant plans to use are adequate.
- (h) *Conformance with program objectives.* (25 Points)

The Secretary reviews each application for information that shows the project will achieve one or more of the following program objectives:

- (1) Increase opportunities for professional advancement for members of underrepresented groups;
- (2) Retrain library personnel to serve the interest of traditionally underserved groups; and
- (3) Retrain library personnel in the new techniques of—
 - (i) Information acquisition, transfer, and communication technology; or
 - (ii) Planning, evaluation, and dissemination.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.34 Distribution of funds.

- (a) In any fiscal year, the Secretary may specify in an application notice the amount of funds available for this program, and how they will be divided among fellowship, institute, and traineeship grants.
- (b) For fellowship grants, the Secretary may reserve funds for fellowship awards at particular academic levels.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

Subpart E—Conditions That Must Be Met By A Grantee

§ 776.40 Allowable costs.

- (a) Allowable costs under this part are those specified in §§ 776.41–776.45.

(b) Fiscal limitations are set forth in § 776.46.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.41 Fellowship project costs.

(a) The grantee may use grant funds in the following amounts to cover the cost of providing fellowship training:

(1) For each fellowship awarded at the undergraduate level—\$1500 for an academic year plus \$250 for a summer session;

(2) For each fellowship awarded at the master's level—\$3500 for an academic year plus \$500 for a summer session; and

(3) For each fellowship awarded at the post-master's and doctoral level—\$3500 for an academic year plus \$800 for a summer session.

(b) The grantee shall use grant funds to pay stipends to fellowship participants in the following amounts:

(1) Undergraduate level—\$1500 for an academic year plus \$250 for a summer session.

(2) Master's level—\$3500 for an academic year plus \$500 for summer session; and

(3) Post-master's and doctoral level—\$5200 for an academic year plus \$800 for a summer session.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.42 Institute project costs.

(a) The grantee shall use grant funds to provide institute training in accordance with 34 CFR Part 74, Subpart Q.

(b) The grantee may use grant funds to pay stipends to institute participants. If the grantee pays stipends it shall do so in the following amounts:

(2) Long-term, full-time, post-baccalaureate level—\$3500 for an academic year plus \$500 for a summer session;

(1) Long-term, full-time, post-baccalaureate level—\$1500 for an academic year plus \$250 for a summer session;

(3) Short-term, full time—\$100 per week; and

(4) Part-time—\$20 per day.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.43 Traineeship project costs.

(a) The grantee shall use grant funds to provide traineeship training in accordance with either § 776.41(a) or § 776.42(a), as the grantee elects in its application.

(b) The grantee may use grant funds to pay stipends to traineeship participants. If the grantee pays stipends it shall do

so in accordance with either § 776.41(b) or § 776.42(b), as the grantee elects in its application.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.44 Travel allowances.

(a) The Secretary may authorize travel allowances for participants—

(1) In cases of extreme hardship; and

(2) If travel is necessary for successful participation in the project.

(b) The mileage rate must be consistent with current Federal travel regulations.

(c) The Secretary may defer authorization of travel allowances until the grantee has documented need.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.45 Allowances for dependents.

(a) In cases of extreme hardship, the secretary may authorize allowances for dependents of participants. The maximum amount that may be provided per dependent is \$450 for an academic year, \$100 for a summer session, and \$10 per week for short-term projects.

(b) The Secretary may defer authorization of allowances for dependents until the grantee has documented need.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.46 Tuition and fees.

A grantee shall not charge tuition or fees to a participant in a training project funded under this part.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.47 Notification of the State agency.

Each institution of higher education that receives a grant under this part shall annually inform the State agency designated under section 1203 of the Act of its project activities.

(Sec. 202 of the Act, 20 U.S.C. 1022)

Supart F—The Administrative Responsibilities of a Grantee

§ 776.50 Participant eligibility and selection.

(a) A grantee selects project participants on the basis of its own published criteria.

(b) Participants must be—(1) Nationals of the United States, or be in the United States for other than a temporary purpose, and intend to become permanent residents of the United States; and

(2) Be engaged in, or preparing to engage in, a profession or other occupation involving library or information science.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.51 Substitutions.

The grantee may replace a participant provided the new participant can successfully complete the training project at no additional cost to the Government. The grantee shall notify the Department of Education in writing within 30 days of the withdrawal or substitution of a participant.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474)

§ 776.52 Payments to participants.

(a) The grant award specifies the amount of money for stipends and for dependency and travel allowances the grantee will receive.

(b) The grantee disburses the stipends, and dependency and travel allowances to the appropriate project participants.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.53 Payment adjustments.

(a) When a participant withdraws from a training project, the stipend and any allowances the participant received must be prorated according to the number of weeks completed in the training period. When a substitution is not made, the unused portion is returned to the Federal Government.

(b) The date of withdrawal is the participant's last day of class attendance or the date the grantee determines that the participant has ceased to maintain academic proficiency. Attendance in any part of a week is counted as a full week.

(Sec. 222 of the Act, 20 U.S.C. 1032)

§ 776.54 Assistance under other Federal programs.

(a) Any amount paid a participant from any other Federal grant program for educational purposes (except veterans', war orphans', and widows' educational assistance under Title 38, United States Code) must be deducted from the amount the participant would receive under this part.

(b) A participant may apply for and receive a Federal educational loan. The amount of the loan and any interest paid may not be deducted from the amount receivable by the participant under this part.

(Sec. 222 of the Act, 20 U.S.C. 1032, 3474, and 38 U.S.C. 1700, *et seq.*)

[FR Doc. 81-31203 Filed 10-27-81; 8:45 am]

BILLING CODE 4000-01-M

Wednesday
October 28, 1981

Strengthening Research Library
Resources Program

Part V

**Department of
Education**

**Strengthening Research Library
Resources Program (Title II-C HEA)**

DEPARTMENT OF EDUCATION

34 CFR Part 778

Strengthening Research Library Resources Program (Title II-C HEA)

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: In a notice published on March 27, 1981, in the Federal Register (46 FR 19000), the Secretary announced his intention to review and, as appropriate, amend certain regulations in an effort to comply with the requirements of Executive Order 12291 and its overall objective to reduce regulatory burden. As a result of this review, the Secretary proposes to revise the final regulations for the Strengthening Research Library Resources Program. These revisions reorganize the current regulations, reduce program requirements, and implement statutory changes made by the Education Amendments of 1980.

DATE: Comments must be received on or before December 14, 1981.

ADDRESS: Comments should be addressed to Frank A. Stevens, U.S. Department of Education, 400 Maryland Avenue S.W., Room 3622, ROB-3, Washington, D.C. 20202-3320.

FOR FURTHER INFORMATION CONTACT: Frank A. Stevens, telephone (202) 245-9530.

SUPPLEMENTARY INFORMATION:

Background

Since fiscal year 1978, the Strengthening Research Library Resources Program has provided financial assistance to institutions with major research libraries. The awards promote research and education of high quality and encourage resource-sharing through networking and other cooperative activities.

On December 24, 1980, final regulations for this program were published in the Federal Register (45 FR 85430) to implement statutory changes made by the Education Amendments of 1980. However, those regulations did not provide an opportunity for public comment because of insufficient time to do so and still have regulations in early 1981 in order to make awards. The Secretary indicated in the preamble to those regulations the intention to revise them, after receiving public comment, for implementation in fiscal year 1982.

Changes in These Regulations

These proposed regulations are based on the Education Amendments of 1980 (Pub. L. 96-374). In addition, they are reorganized to conform with the format

prescribed by the Education Department General Administrative Regulations (EDGAR). Proposed revisions to the existing sections and new sections include:

- § 778.5 *Definitions that apply to the Strengthening Research Library Resources Program.* This section adds one new term which is "network".

- § 778.10 *Program objectives.* This section establishes the main focus for the design of projects.

- § 778.20 *Application requirements.* This section modifies the language of the current regulations and adds a new provision regarding joint applications.

- § 778.30 *How the Secretary judges applications.* This section introduces a new method for judging applications.

- § 778.31 *Criteria for evaluating significance as a major research library.* This section establishes new selection criteria and point values for determining an applicant's significance as a major research library.

- § 778.32 *Criteria for evaluating the quality of the project.* This section establishes new selection criteria and point values for evaluating the quality of the project.

- § 778.33 *Geographical balance.* This section permits the Secretary reasonable discretion in ensuring geographical balance in making grant awards.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations include nonprofit organizations and small institutions of higher education. The regulations contain paperwork compliance and reporting requirements, but these will not have a significant economic impact on the small entities participating in the program.

Invitation to Comment

General Comments

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

Information from Institutions of Higher Education

The Secretary requests comments on whether these proposed regulations would require institutions of higher education to transmit information that is already being gathered by, or is available from, any other agency or authority of the United States.

Burden Reduction

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall

objective of reducing regulatory burden, public comment is also invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations, especially with regard to paperwork and compliance requirements.

Address for Comments

Written comments and recommendations may be sent to the address given at the beginning of this preamble. The Secretary will consider in the development of the final regulations all comments received on or before December 14, 1981.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Regional Office Building 3, Room 3622, 7th and D Streets, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week, except Federal holidays.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each section of these proposed regulations.

(20 U.S.C. 1021, 1041)

Dated: October 21, 1981.

(Catalog of Federal Domestic Assistance No. 84.091, Strengthening Research Library Resources Program)

T. H. Bell,

Secretary of Education.

The Secretary proposes to revise Part 778 of Title 34 of the Code of Federal Regulations to read as follows:

PART 778—STRENGTHENING RESEARCH LIBRARY RESOURCES PROGRAM

Subpart A—General

Sec.

778.1 The Strengthening Research Library Resources Program.

778.2 Eligible parties.

778.3 Ineligible parties.

778.4 Regulations that apply to the Strengthening Research Library Resources Program.

778.5 Definitions that apply to the Strengthening Research Library Resources Program.

Subpart B—Kinds of Projects for Which Grants Are Made

778.10 Program objectives.

778.11 Authorized activities.

Subpart C—How To Apply for a Grant

778.20 Application requirements.

Subpart D—How a Grant is Made

778.30 How the Secretary judges applications.

Sec.

778.31 Criteria for evaluating significance as a major research library.

778.32 Criteria for evaluating the quality of the project.

778.33 Geographical balance.

Subpart E—The Administrative Responsibilities of a Grantee

778.40 Consultation with State agency.

Authority: Part C, Title II, Higher Education Act of 1965, as amended by the Education Amendments of 1980, Pub. L. 96-374, 94 Stat. 1383 (20 U.S.C. 1021, *et seq.*)

Subpart A—General

§ 778.1 The Strengthening Research Library Resources Program.

The Secretary awards grants for the purpose of promoting research and education of high quality throughout the United States by providing financial assistance to help the Nation's major research libraries—

(a) Maintain and strengthen their collections; and

(b) Make their holdings available to other libraries whose users have need for research materials.

(Sec. 201 of the Act, 20 U.S.C. 1021)

§ 778.2 Eligible parties.

The Secretary awards grants under this part to institutions with major research libraries. An institution with a major research library—

(a) Is a public or private nonprofit institution, including the library resources of an institution of higher education, and independent research library, or a State or other public library.

(b) Has a library collection which is available to qualified users that—

(1) Makes a significant contribution to higher education and research;

(2) Is broadly based;

(3) Is recognized as having national or international significance for scholarly research;

(4) Is of a unique nature, and contains material not widely available; and

(5) Is in substantial demand by researchers and scholars not connected with the applicant institution.

(c) The Secretary uses the selection criteria in § 778.31 in determining an applicant's strength as a major research library.

(d) The requirements in paragraph (b) of this section must be met by an applicant in order to be eligible for a grant under this part. In the case of a consortium, these requirements must be met by the library collection of the consortium and not by the separate collections of the institutions which make up the consortium.

(Sec. 231 of the Act, 20 U.S.C. 1041)

§ 778.3 Ineligible parties.

(a) An applicant may not receive a grant under this part for the same fiscal year it receives a grant under sections 211 of the Act (Resource Development Grants of the College Library Resources Program) or 224 of the Act (Special Purpose Grants under the Library Training, Research, and Development Program).

(b) An applicant institution of higher education must respond to the eligibility and application requirements and evaluation criteria in this part, as applicable, without regard to any of its library collections located at a branch campus which receives a grant in the same fiscal year under section 211 or section 224 of the Act.

(c) For purposes of this section, each branch campus of an institution of higher education is considered to be a separate institution.

(d) Notwithstanding the criteria in §§ 778.31 and 778.32, the Secretary will not fund a project eligible for assistance under other Federal programs authorizing grants to support research libraries, such as the Medical Library Assistance Act of 1965 (as amended by Pub. L. 93-353) unless the application—

(1) Documents that payments under this part will not duplicate payments under other Federal programs; and

(2) Demonstrates a special need for funding under this part.

(Sec. 231 of the Act; 20 U.S.C. 1041)

§ 778.4 Regulations that apply to the Strengthening Research Library Resources Program.

The following regulations apply to the Strengthening Research Library Resources Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and Part 77 (Definitions).

(b) The regulations in this Part 778. (20 U.S.C. 3474)

§ 778.5 Definitions that apply to the Strengthening Research Library Resources Program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Acquisition	Nonprofit
Applicant	Private
Application	Project
Department	Public
EDGAR	Secretary
Fiscal year	State
Grant	

(b) *Definitions that apply to this part.* The following additional definitions apply to this part:

"Act" means the Higher Education Act of 1965, as amended by the Education Amendments of 1980.

"Branch campus" means a campus of an institution of higher education located in a community of the United States different from that of the parent institution, not within a reasonable commuting distance from the main campus, and which has college level programs for which library facilities, services, and materials are necessary.

"Institution of higher education" means the type of institution defined by section 201 of the Act.

"Network" means a cooperative organization formed to share library resources and to provide services (such as computer services and telecommunications) to its members. Its members may include institutions of higher education and public or private nonprofit library institutions.

"Primary clientele" means students, faculty, or other registered users of the applicant or grantee.

"State agency" means the State agency designated under section 1203 of the Act.

(Sec. 1201 of the Act, 20 U.S.C. 1141 and 3474)

Subpart B—Kinds of Projects for Which Grants Are Made

§ 778.10 Program objectives.

Applicants are encouraged to design projects that—

(a) Augment unique collections of specialized research materials.

(b) Preserve or maintain unique research materials in danger of deterioration.

(c) Promote the sharing of library resources.

(d) Contribute to the national bibliographic data base through membership in, and involvement with, a major computer-based library network.

(e) Adapt and convert library records to the highest national bibliographic standards.

(Sec. 201 of the Act, 20 U.S.C. 1021)

§ 778.11 Authorized activities.

Funds provided under this part may be used to achieve one or both of the purposes specified in § 778.1. Authorized activities may include, but are not limited to—

(a) Acquiring books and other materials to be used for library purposes.

(b) Binding, rebinding, and repairing books and other materials to be used for library purposes and preserving such materials by making photocopies, by means of treatment to lengthen the life of paper or bindings, or by other means.

(c) Cataloging, abstracting, and making available lists and guides of the library collection.

(d) Distributing library materials and bibliographic information to users beyond the primary clientele through the mail or through electronic, photographic, magnetic, optical, or other means of reproduction.

(e) Acquiring additional equipment and supplies that will assist in making library materials available to users beyond the primary clientele.

(f) Hiring necessary additional staff to carry out activities funded under this part.

(g) Communicating with other institutions.

(h) Performing evaluations.

(i) Disseminating information.

(Sec. 201 of the Act, 20 U.S.C. 1021)

Subpart C—How to apply for a Grant

§778.20 Application requirements.

Each applicant for a grant under this part shall submit an application to the Secretary.

The application must include the following:

(a) Information sufficient to enable the Secretary to determine the eligibility of the applicant under §§778.2 and 778.31.

(b) Information sufficient to enable the Secretary to judge the quality of the proposed project under §778.32.

(c) If the application is a joint application from two or more major research libraries, the application must provide information about the cooperative administration of the proposed project.

(Sec. 231 of the Act, 20 U.S.C. 1041 and 3474)

Subpart D—How a Grant is Made

§778.30 How the Secretary judges applications.

In evaluating applications for new grants, the Secretary uses two sets of criteria. The Secretary uses the first set of criteria (§778.31) to determine the applicant's significance as a major research library. To be eligible to compete for a grant an applicant must score at least 65 points of the 100 points possible for the first set of criteria. The Secretary then evaluates the quality of those projects proposed by eligible applicants according to the second set of criteria (§778.32).

(20 U.S.C. 3474)

§778.31 Criteria for evaluating significance as a major research library.

The Secretary uses the criteria in this section to determine the applicant's significance as a major research library. The maximum score is 100 points. The

Secretary reviews each application for information that shows the extent to which the applicant's library collection—

(a) Makes a significant contribution to higher education and research as measured by—(20 points)

(1) The number of major research projects for which the applicant has made resources available in the past fiscal year;

(2) The amount the applicant expended in research funds from all sources, and the number of projects conducted by the institution with these funds in the past fiscal year; and

(3) Evidence that the institution is an established and recognized part of the world of advanced research and scholarship.

(b) Is broadly based as measured by—(20 points)

(1) The number of subject areas covered or the comprehensiveness of special collections;

(2) The number of volumes and titles, manuscripts, microforms, and other types of materials;

(3) The number of volumes and titles and other materials added to the collection in the previous fiscal year; and

(4) The number of current periodical subscriptions.

(c) Is recognized as having national or international significance for scholarly research—(20 points)

(1) For all libraries, consideration will be given to such factors as—

(i) The number of interlibrary loans made or copies of materials provided by the applicant during the past fiscal year to libraries;

(ii) The number of such loans made or copies provided to libraries located outside the geographic region in which the applicant is located; and

(iii) The number of such loans made or copies provided to libraries located outside the United States.

(2) For libraries that lend materials, consideration will be given to such additional factors as—

(i) The extent of loan requests from users outside the library's primary clientele;

(ii) The extent to which the library lends more on interlibrary loan than it borrows; and

(iii) The number of researchers and scholars from outside the geographic region of the library who use its collections and the number of research hours they spent in the library.

(3) For libraries that do not lend materials, consideration will be given to the number of researchers and scholars utilizing the library and its collections

and the number of research hours they spent in the library.

(d) Is of a unique nature, and contains material not widely available, as measured by—(20 points)

(1) The number and nature of special collections containing research materials not widely available;

(2) The availability of printed, computerized, or otherwise published catalogs or other guides to the special collections; and

(3) Other evidence which demonstrates possession of uncommon library resources necessary to support advanced research and scholarship.

(e) Is in substantial demand, as measured by—(20 points)

(1) The number and type of institutions with which the applicant has formal, cooperative agreements for library and information services;

(2) The degree to which loans of the applicant's materials described in paragraphs (c)(1)(i)–(iii) of this section are made under the formal, cooperative arrangements described above with libraries and users in other States, regions, and countries;

(3) Whether the applicant is an active member of a major computer-based network; and

(4) Other evidence of availability and widespread use of materials.

(20 U.S.C. 3474)

§778.32 Criteria for evaluating the quality of the project.

The Secretary uses the criteria in this section to evaluate the quality of the proposed project. The maximum score is 100 points.

(a) *Description of the project.* (20 points) The Secretary reviews each application for information that shows the extent to which—

(1) The description of the project is concise;

(2) The statement of the goal and objectives is clear;

(3) There has been adequate planning to assure that the project objectives are realistic.

(b) *Significance of the project.* (30 points)

(1) The Secretary reviews each application for information that shows the importance of the project for scholarly research and inquiry.

Consideration is given to factors, such as—

(i) The degree of uniqueness of the project;

(ii) The size of the audience the project is intended to serve;

(iii) The extent of the need for the project;

(iv) The likelihood that the proposed project will increase the availability of the applicant's research collections;

(v) The likelihood that the proposed project will help the applicant maintain and strengthen its collections, particularly collections which have national or international significance for scholarly research; and

(vi) The likelihood that the applicant intends to disseminate the project accomplishments to the scholarly and professional communities.

(2) If a joint application is submitted by two or more institutions, the Secretary looks for evidence of likely significant project accomplishments as a result of the cooperative undertaking.

(c) *Plan of operation.* (15 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purposes of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

Cross-reference.—See EDGAR 34 CFR 75.112 (Proposed project period and a timeline).

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2)(i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its non-discriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualification of a person, the Secretary considers evidence of past experience and training, in the field related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(g) *Evaluation plan.* (5 points)

(1) The Secretary reviews each application for information that shows

the quality of the evaluation plan for the project.

Cross-reference.—See EDGAR 34 CFR 75.590 (Evaluation by the grantee).

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(h) *Institutional commitment.* (5 points)

The Secretary looks for information that shows the extent of the applicant's commitment to the project, its capability to continue the project, and the likelihood that it will build upon the project when Federal assistance ends.

(20 U.S.C. 3474)

§ 778.33 Geographical balance.

(a) The Secretary endeavors to achieve a broad and equitable geographical distribution throughout the Nation of projects funded under this part.

(b) After evaluating the applications according to the criteria in § 778.32, the Secretary determines whether or not the most highly rated applications are broadly and equitably distributed. The Secretary may select other applications for funding if doing so would improve the geographical distribution of projects. Before selecting other applications the Secretary will consider—

(1) The geographical distribution of projects during the preceding five fiscal years; and

(2) The impact on the needs of the research community.

(20 U.S.C. 3474)

Subpart E—The Administrative Responsibilities of a Grantee

§ 778.40 Consultation with State agency.

Each applicant institution of higher education which receives a grant under this part shall annually inform the State agency designated under section 1203 of the Higher Education Act, as amended, of its activities under this part. (Sec. 202 of the Act, 20 U.S.C. 1022)

[FR Doc. 81-31202 Filed 10-27-81; 8:45 am]

BILLING CODE 4000-01-M

Final Report

Wednesday
October 28, 1981

Part VI

**Department of the
Interior**

**Office of Surface Mining Reclamation and
Enforcement**

Standard for Approval of State Programs

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 730, 731, and 732

Permanent Regulatory Programs for Non-Federal and Non-Indian Lands

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rules.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, is amending 30 CFR 730.5 and 732.15 and deleting 731.13 to give States more flexibility in the development of regulations for surface coal mining and reclamation operations within their borders. Many State agencies have complained that the current regulations are not sufficiently flexible to respond to the particular needs of the individual States. The rule being finalized today eliminates the so-called "State window" and replaces it with provisions that would allow States to adopt any provisions that are as effective as the Federal regulations.

EFFECTIVE DATE: November 27, 1981.

FOR FURTHER INFORMATION CONTACT:

Carl C. Close, Acting Assistant Director, Program Operations and Inspection, Office of Surface Mining, Room 252, South Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343-4225.

SUPPLEMENTARY INFORMATION:**1. Public Participation**

A draft of the proposed rule was made available to State regulatory authorities and groups representing industry and citizens. In addition, a notice was published in the *Federal Register* (46 FR 22399-22400, April 17, 1981) announcing the availability of the draft proposed rule and inviting comments on its applicability. Forty-five comments were received during the pre-proposed comment period which closed on May 8, 1981.

On July 1, 1981, the Secretary published proposed rules to amend 30 CFR 730.5 and 732.15 and delete 731.13 that would give the States more flexibility in the development of regulations for surface coal mining and reclamation operations within their borders (46 FR 34348-34351). Public comments were invited for 30 days ending July 31, 1981, and a public hearing was held in Washington, D.C. on July 28, 1981.

In order to allow discussion of the proposed rule to take place between

OSM representatives and members of the House Subcommittee on Energy and Environment during oversight hearings held on August 5, 1981, and September 22, 1981, the comment period was extended until August 12, 1981 (46 FR 40706) and reopened from September 21, 1981, through September 23, 1981 (46 FR 46596).

Two speakers offered testimony at the public hearing and 20 written comments were received. In addition there was discussion concerning the rulemaking by witnesses, members of Congress and OSM officials during the House Subcommittee oversight hearings. All testimony, discussion and comments were analyzed. A transcript of the hearing held on July 28, 1981, notes of discussion during oversight hearings and copies of all comments received are on file in the Administrative Record Room at the address listed below.

2. Background

Section 503(a) of the Surface Mining Control and Reclamation Act (the Act) permits a State to assume primacy for the regulation of coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations *in accordance with* the requirements of the Act . . ." and "rules and regulations *consistent with* regulations issued by the Secretary pursuant to this Act." 30 U.S.C. 1253(a)(1) and (7) (Emphasis added).

By this provision, Congress intended to establish the specific requirements of the Act and the regulations promulgated thereunder as the minimum national standards for the regulation of surface mining reclamation operations. Acceptable State programs could exceed these minimum standards, but could not fail to meet them.

(See H.R. Rep. 95-493, 95th Cong., 1st Sess. 102 (1977), S. Rep. 95-128, 95th Cong., 1st Sess. 49, 52-54, 63 (1977).)

To implement the provisions of Section 503 and to insure a balance among the competing mandates of the Act, the Secretary promulgated Parts 730-732 is the permanent regulatory program (44 FR 15323-15328, March 13, 1979). Under the regulations a State must submit its proposed permanent program to OSM pursuant to the procedures contained in 30 CFR Parts 730, 731, and 732 to assume primary jurisdiction under the Act for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders.

OSM reviews the proposal and recommends approval or disapproval to the Secretary of the Interior of Each State program according to procedures contained in 30 CFR Part 732.

State alternatives to the Federal regulations are acceptable if they meet the requirements of 30 CFR 731.13, are "in accordance with" the requirements of the Act, and are "consistent with" the Federal regulations (30 CFR 732.15(a)). The current regulation at 30 CFR 730.5 gives "consistent with" and "in accordance with" the same definition:

"Consistent with" and "in accordance with" mean:

(a) With regard to the Act, the State laws and regulations are no less stringent than, meet the minimum requirements of and include all applicable provisions of the Act, and (b) With regard to the Secretary's regulations, the State laws and regulations are no less stringent than and meet the applicable provisions of the regulations of 30 CFR Chapter VII.

The regulations at 30 CFR 731.13 provide standards and procedures for approving alternatives to provisions of the regulations of 30 CFR Chapter VII. These provisions have been informally labelled as the "State window." A State may request approval for an alternative by meeting the following conditions:

(a) Identifying the provision in the regulation of this Chapter for which the alternative is requested;

(b) Describing the alternative proposed and providing statutory or regulatory language to be used to implement the alternative; and

(c) Explaining how and submitting data, analysis and information, including identification of sources, demonstrating—

(1) that the proposed alternative will be in accordance with the applicable provisions of the Act and consistent with the regulations of Chapter VII, and

(2) that the proposed alternative is necessary because of local requirements or local environmental or agricultural conditions.

Many State agencies have complained that the current regulations are not sufficiently flexible to respond to the particular needs of the individual States. In particular, they object that the interpretation given by the Department to Section 503 of the Act has limited the flexibility of the States in developing and submitting proposed State programs.

3. Scope of Rule

The amendments to Parts 730-732 are designed to address the concerns of the States and their criticism that the State window unnecessarily restricts their ability to propose alternatives to the Federal regulations. The amendments make it clear that States are not

required to adopt the Secretary's regulations; that within limits described herein, they are free to develop and adopt regulations which meet their special needs. States are no longer required to demonstrate that each alternative is necessary because of local requirements or local environmental or agricultural conditions. In addition, States are not required to mirror all applicable provisions of the Secretary's regulations. A State program, including its laws and regulations will, however, have to be as effective as the Secretary's regulations in meeting the requirements of the Act in order to be approved. This implements Congress' intent that the Secretary's regulations serve as the benchmark for evaluating State proposals.

Under these final regulations, as under the previous rules, the Secretary would base his decision to approve a State program on the information contained in the State program submission and other relevant information in the Department's administrative record for that State program. To obtain approval of alternatives to the Federal regulations, however, the record need only contain sufficient information and data to support the conclusion that the State's proposals are as effective in meeting the requirements of the Act as are the Federal regulations.

OSM will make every effort to assist the States with compilation of information and data, but it remains the responsibility of the State seeking approval of an alternative to establish the necessary record.

The revisions increase the flexibility of the States in the development of their State programs by eliminating the requirements of 30 CFR 731.13 that a State alternative must be justified by local needs and by introducing the concept of "no less effective than" as the operative definition of the term "consistent with" in Section 503(a)(7) of the Act. The increased flexibility which results from the elimination of § 731.13 is obvious. However, the meaning of the phrase "no less effective than" merits further elaboration.

To be "no less effective in meeting the requirements of the Act" the State program must provide assurance that the State provisions will be as effective in meeting the requirements of the Act as the Federal regulations. The standards for judging the effectiveness of the State proposals are the appropriate Federal regulations; however, the State approach no longer need duplicate the approach in the Federal regulations.

In response to public comment (see details under "Public Comments on Proposed Rule"), the meaning of the amendment is further clarified as follows:

With respect to judging the effectiveness of State provisions which are alternatives to the Secretary's regulations, the type or purpose of the provision will affect the Secretary's review. In judging the effectiveness of an alternative to the Secretary's regulations dealing with mining and reclamation operations performance standards, OSM will analyze whether the Secretary's regulatory objective is as likely to be achieved by the State alternative as by the comparable Federal regulation. Alternatives to procedural provisions in the Secretary's regulations will be evaluated from the point of view of their similarity to the Secretary's rules in affording rights and remedies to persons. Where Sections 518(i) and 521(d) do not apply, the effectiveness of alternatives to the enforcement and penalty provisions will be evaluated from the standpoint of whether operators will be as likely to maintain compliance under the State program as under a program containing the Federal rules. Monetary and other penal provisions of a State program must be similar in severity to those in the Act and as effective as the Federal regulations in meeting the requirements of the Act.

The rule being published today is not intended to take the place of a detailed review of the individual requirements of the permanent program rules at 30 CFR Chapter VII. In accordance with President Reagan's Executive Order 12291, OSM has begun reviewing its regulations and will continue to propose rule changes to modify regulations that are determined to be unnecessary and burdensome. Rather, this final rule is intended to ensure that the States can exercise the lead role contemplated for them under the Act.

Currently, sixteen (16) State programs have been approved by the Secretary. Under the rule being published today, States with approved programs may develop regulations meeting their specific needs. Such regulations can be incorporated into the approved State program by amendment under procedures of 30 CFR 732.17. States without approved programs can also develop State-specific regulations for incorporation into future program submissions based on the changed standard of this rule. Virginia's State program is currently under consideration by OSM and the Secretary. It was resubmitted to OSM

on August 13, 1981, and notices were published in the **Federal Register** on August 17, 1981 (46 FR 41525-41527) and August 31, 1981 (46 FR 43698) establishing a period for public comment which closed September 8, 1981, at 4:00 p.m. The Virginia State program will be evaluated on the basis of the rule being published today. Because the rule was not in effect during the initial stages of the review period an additional 15 days will be provided for the public to consider the Virginia State program in light of the new rule. A separate notice will be published in the **Federal Register** reopening the comment period. All later resubmitted programs will be evaluated on the basis of this new rule.

4. Public Comments on Proposed Rule

In response to release of the proposed rule in draft form, 45 comments were received during the comment period which closed on May 8, 1981. Twenty-five statements supported the proposed change as it was drafted and recommended that it be adopted. Seventeen additional comments were supportive of the draft rule, but recommended further clarification or changes. Three commenters recommended that the rule not be adopted. The concerns expressed by industry representatives, State officials, citizens, groups and agencies that reviewed the draft proposed rule, and the revisions which they suggested were given full consideration in preparing the rule as proposed in the **Federal Register** on July 1, 1981 (46 FR 34349). The main points and rationale offered by these commenters were summarized in the preamble to the proposed rule. Although the comments received on the draft rule are not addressed here, they are available to anyone who wishes to review them in the OSM Administrative Record Room at the address above.

The proposed rule was published in the **Federal Register** on July 1, 1981 (46 FR 34349). Twenty comments were received during the public comment period. Ten statements supported the rule as it was proposed and recommended that it be adopted. An additional four commenters were supportive of the proposed rule, but recommended further clarification or changes. Six commenters recommended that the rule not be adopted. Resolution of the comments is as follows:

The Sierra Club, Environmental Policy Institute (EPI), the National Wildlife Federation (NWF), the Village of Catlin and the Township of Catlin, Illinois, the Appalachian Research Fund, the Technical Information Project and other groups asserted that the proposed

change would eliminate use of OSM's regulations as a standard for approval of State programs as required by section 503(a)(7) of the Act. Some of the commenters contended that the proposed rule would eliminate comparison of the proposed State programs with the Secretary's regulations, and substitute comparison solely with the Act.

The Secretary disagrees. The proposed change will not eliminate the comparison of the State's provisions with the permanent program rules, but will merely redefine the purpose of that comparison. To be approved under the old rule, a State's provisions were required to be as stringent as the requirements of the Act and as stringent as the provisions in the Secretary's regulations. This resulted in State program provisions which were virtually identical to SDM's regulations. A State's program must still have provisions as stringent as the requirements in the Act. But under the revised rules a State's program will be compared to the Secretary's regulations to insure that the objective or purpose of the requirements of the Act (to protect the environment, to induce operators to comply, to afford citizen rights, etc.) is as likely to be achieved by the State's provisions as by the Secretary's regulations. While the State is no longer required to match each component part of its provisions with a corresponding part of the Secretary's regulations, it must be able to demonstrate that its rules afford the same protections or guarantees that the Secretary's rules provide.

EPI, NWF and other commenters also pointed out that the proposed rule change would establish two different standards, one for comparing State program submissions with the Federal statute and another for comparing the State's submission with the Federal regulations. The commenters asserted that the Act requires the same standard to be used when comparing a State program with either the Federal statute or the Federal regulations.

OSM agrees that the standard for evaluating a State's submission in terms of the Act will be the comparative stringency of the provisions whereas the revised standard for evaluating a State's program in terms of OSM's regulations will be the relative effectiveness of the rules in meeting the provisions of the Act. OSM disagrees that this is contrary to the intent of Congress. It is essential that States' programs contain provisions that closely parallel the requirements of the Act to insure that the fundamental aspects of regulating surface mining are uniform throughout the States. With

respect to the permanent program regulations, the Secretary believes that the standard for evaluating State programs should not require that the State's provisions mirror OSM's but that they achieve the goal or level of performance established by each of the Secretary's rules. This approach will enable States to adopt regulations that meet particular individual needs without compromising the standards mandated by the Act and OSM's rules. Section 101(f) of the Act makes clear Congress' intent to establish uniform standards while still allowing States flexibility to attune their programs to their unique circumstances.

Several commenters, including the Sierra Club, the Illinois Department of Mines and Minerals, the EPI, the NWF, the Appalachian Research Defense Fund, the Technical Information Project and other groups, commented that further clarification of the meaning of "as effective as" was needed. The Secretary agrees. The preamble discussion of what is meant by "effectiveness" has been expanded from that provided in the proposed rule. (See above under "Scope of Rule.")

In addition to its other comments discussed above, the Sierra Club asserted that the proposed changes introduced too much bureaucratic discretion at both State and Federal levels for objective regulation. Another objection was that the proposed changes, if adopted, would be unfair to those citizens, legislators, and operators in the 16 States with programs already approved under the existing rules. The commenter also stated that the proposed changes would create a patchwork quilt of regulations unlikely to be favored even by coal operators.

With regard to the commenter's first point, Congress clearly intended, as stated at several points throughout the Act, such as section 101(f) and section 201(c)(9), that the regulatory authority (State or Federal as the case may be) should have discretion with respect to certain procedures and practices in the regulatory process. In a similar vein, the revised rule will permit States to adopt alternatives which may allow State officials a degree of freedom to judge what procedures or practices are appropriate for the individual State. By allowing such discretion, however, the Secretary is not granting the regulatory authority the right to ignore the standards of the Act and OSM's regulations. It merely allows certain flexibility with respect to deciding how best to meet the purposes of the Act and the Secretary's regulations. Congress explicitly allowed for such flexibility to

accommodate the wide differences among States.

With regard to the commenter's second point, the 16 States with approved programs may also develop regulations meeting their specific needs. Such regulations can be incorporated into the approved State program by amendment under the procedures at 30 CFR 732.17.

The commenter's concern that the revised rules will create a patchwork quilt of regulations from one State to the next is unwarranted. The Secretary will require that all States strictly adhere to the provisions of the Act and insure that State programs provide protections or guarantees equivalent to the Secretary's regulations. In addition, State provisions will be judged against the Secretary's regulations which will result in the degree of uniformity between State programs intended by Congress.

The rule changes will merely allow States the necessary flexibility to design programs to meet special circumstances.

The Consolidation Coal Company and the Joint Committee for Surface Mining of the American Mining Congress and National Coal Association recommended that, in addition to the other changes, 30 CFR 730.11(a) be modified to eliminate use of the words "no less stringent than," in reference to the Secretary's regulations. The Secretary agrees that retaining the phrase here while eliminating it elsewhere may cause confusion. OSM will propose in a separate rulemaking that the words "inconsistent with" be substituted for the words "no less stringent" so that the proposed language of the regulations is the same as that used at section 505(a) of the Act.

The Illinois Department of Mines and Minerals, in addition to its other comments discussed above, stated that the proposed rule changes fail to eliminate areas of the Secretary's regulations not required by the Act, or otherwise not truly necessary for inclusion in State programs. Several examples of such regulations were submitted. While further revision of the Secretary's regulations may be beneficial, it is outside the scope of this rulemaking. The appropriate forum for the commenter's suggestion is a petition for rulemaking pursuant to § 700.12 of the Secretary's regulations.

The Village of Catlin and the Township of Catlin, Illinois, commented that the "no less effective than" standard is virtually the same test as the "capable of achieving the same regulatory result" test which was considered but rejected by the Secretary at the time the permanent regulatory

program was under consideration. (See 44 FR 14952 (March 13, 1979)). The "regulatory result" test and other tests that were analyzed at that time were being considered to be applicable for both the requirements of the Act and the Secretary's regulations. The "no less effective" test is similar to the "capable of achieving the same regulatory result" test but does not pose a problem when it is applied to just the Secretary's regulations as is the case with the change being made here.

OSM believes that the "as effective as" standard does not limit OSM to utilizing the "result" as the only evaluation criterion in deciding the acceptability of State alternatives. In determining the effectiveness of some rules OSM may be primarily concerned that the State's regulations achieve the same result as OSM's rules regardless of the methods or processes leading to that result. This would likely be the case with certain mining operations performance standards. In evaluating other rules, however, OSM may be most concerned that the procedures or processes prescribed by the State regulations are comparable to those established by OSM's rules. Rules intended to implement enforcement provisions to protect citizen rights would more likely fall into this category, especially where sections 518(i) and 521(d) apply. Hence, the "as effective as" test does not restrict OSM to relying on the "regulatory result" as the only evaluation guideline.

The Village of Catlin and the Township of Catlin, the EPI, the NWF and other groups contended that the effect of the rule changes will be to allow States to employ alternatives as they see fit until the Secretary demonstrates the approach taken is not in accordance with the Act or is not as effective as the Secretary's regulations. The commenters asserted that States will be relieved of the burden of demonstrating that alternative approaches meet the Federal statutory and regulatory standards contrary to section 503(a) of the Act.

The Secretary agrees that the proposed rule did not make sufficiently clear that the burden is placed on the State for proving that alternative approaches to regulations will be as effective in meeting the Federal statutory standards. The explanation of the "Scope of Rule" above clarifies that the State must submit, with any proposed alternative, a written explanation or justification of how it will be as effective as the Secretary's rule in meeting the standards of the Act. In the event the State's explanation is

not adequate, OSM will request further clarification before making a final determination on the proposed alternative.

The Environmental Policy Institute, the National Wildlife Federation, Technical Information Project and other groups commented on the example provided in the proposed rule of an alternative State regulation that could be approved by OSM under the revised rule. The example was an alternative to OSM's approach to assuring an adequate stocking of trees where the postmining land use of the mine site would be forest land. The proposed alternative provided that the State forester approve proposed tree stocking plans. The commenters contended that the alternative would allow the State forester to make judgments without having standards. As discussed above, OSM will require a State to provide a justification of how its alternative rule would be as effective as the Secretary's rule in meeting the standards of the Act. If a State's explanation does not demonstrate how this would be achieved, OSM would request further clarification. Presumably, in the case of the tree stocking example, the State submitting the alternative would explain what criteria the State forester would use in making a judgment. If not, OSM would ask the State to address that question. Regardless of what criteria the State forester elected to use, the State would have to demonstrate that its approach would be no less effective in meeting the standards of the Act than the Secretary's rules.

5. Examples of Alternatives Under the New Rule Amending the Standard for State Program Resubmissions

The preamble to the proposed rule offered two alternatives as examples of changes that might be approved under the new standard. With elaboration and justification by the States resubmitting the alternatives both examples could be accepted. Of course, consideration of approving the alternatives would be subject to review procedures for a State program submission or State program amendment, in which case the public could comment upon the proposal.

Example 1: One State program submitted to OSM last year had a different approach from the Secretary's rules for the assurance of adequate stocking of trees where the postmining land use of the mine site would be forest land. While the Federal regulations specify the minimum tree count per acre, the State's rule would have required only that the State forester approve the proposed stocking plan. Under the existing rules this State approach was

found inadequate by the Secretary, in spite of evidence that the State forester would look to assuring that there would be stocking comparable to existing forestland in the State. Under the new rule being published today, the State's approach might well have been approved. (See 45 FR 86466, New Mexico Conditional Approval.) As explained above under "Public Comments," the State would be required to submit additional details as to the criteria the State forester would employ in evaluating each proposed stocking plan.

Example 2: Another State program submitted to OSM last year proposed fewer inspections of certain types of sediment pond dams than are required by the Secretary's regulations at 30 CFR 816.46(t). The proposal by Kentucky would have required inspections for these dams "as required by the Department" rather than the four times per year mandated by the Federal rule. Due to small size and low hazard location, the State proposal would have resulted in fewer than four inspections for certain ponds. Under the current rules this State approach was found inadequate by the Secretary. The disapproval cited lack of evidence in the submission that conditions exist in Kentucky justifying less than four inspections per year for all sediment pond dams. Under the new rule, the State's approach might well have been approved if more information were offered to justify fewer inspections and a reasonable basis were presented for the conclusion that it was as effective as the Federal requirement. (See 45 FR 69948-69949, Kentucky Partial Approval.)

The Secretary also solicited additional examples of possible State program provisions that might be acceptable under the new rule. The preamble to the proposed rule stated that representative examples submitted would be addressed in the preamble to the final rule to afford the public further guidance as to the scope and meaning of the rule.

Many of the examples offered were not alternatives to the Secretary's regulations. Instead they are proposals which violate a minimum requirement of the Act or are appeals to change particular aspects of the Secretary's regulations without offering actual alternative language. Other offerings are proposals to delete certain requirements for State programs such as the requirement that States afford State employees protection consistent with the offered Federal employees under section 704 of the Act. To the extent

possible a finding has been made either accepting or rejecting the alternative proposal. Findings have been made only for proposals that contained sufficient information. In some cases, the proposal submitted has been supplemented with the addition of certain language which would allow it to be accepted.

1. Illinois proposed to substitute "siltation structure" for "sediment pond" throughout its permanent program regulations. The proposal noted that the alternative will permit operators to identify the individual siltation control measures that will best meet the siltation standard in the most cost effective manner. Sedimentation ponds are required under 30 CFR 816.46 in implementation of section 515(b)(10)(B)(i). The regulations do not allow for alternatives to sedimentation ponds. Under the rule being published today, the Secretary could find the use of "siltation structures" to be as effective as his requirement for "sediment ponds" provided the State program demonstrated that the particular siltation structures would be the best technology currently available and that the effluent standards would be met. In addition, the State program must include details governing each type of siltation structure to be used.

2. Illinois proposed to define "affected area" as it pertains to underground mining in an alternative way. The proposal listed several reasons why the State believes an alternative definition is necessary but did not include a specific definition for consideration. The State claims that it is not necessary to extend all the Secretary's permitting and performance standard requirements to the entire surface area overlying the underground coal mine. The State asserts that a strict interpretation of the regulations requires that all the affected area for an underground mine be included in a permit and that in applying for a permit the applicant must submit proof of a right to enter the lands and conduct mining—proof which they may not be able to produce for all surface area overlying the subsurface workings. Without specific language for an alternative definition, the Secretary cannot make a judgement as to its acceptability under the new rule. The definition of the term now found in the regulations, 30 CFR 701.5, includes all of the area of land overlying the underground workings.

3. Illinois proposed to accept the certifications, inspection reports, etc., of the Mine Safety and Health Administration (MSHA), which are maintained at the mine site, as meeting the requirements of certain of the

Secretary's regulations. The Secretary could find a State's use of MSHA certifications and inspection reports as effective as provisions contained in the Secretary's regulations where they duplicate MSHA certification or requirements. Items that are required by the Secretary's regulations and are not included in the MSHA reports must be furnished separately.

4. Illinois proposed an alternative to the reference area concept for evaluating revegetation success contained in 30 CFR 816.111–117 and 817.111–117. Illinois suggested that success of revegetation of all postmining land uses except agricultural could be based upon achieving acceptable ground cover.

The proposal did not include sufficient detail to allow assessment of the evaluative standards offered. In any case, an alternative may not be necessary since existing 30 CFR 816.116 contains considerable built-in flexibility for the regulatory authority to select alternative means for defining revegetation success. According to this provision, comparison of ground cover and productivity may be made on the basis of reference areas or through the use of technical guidance procedures published by USDA or USDI for assessing ground cover and productivity. But if the USDA or USDI methods do not meet the State's needs, then under the rule being finalized today, States may adopt other alternatives for evaluating revegetation. These alternatives will be approved by the Secretary if they can be found to be "no less effective" in meeting the requirements of the Act than the reference area or technical guidance contained in agency literature as specified in the regulations.

5. Illinois proposed not to apply (a) the Secretary's prime farmland rules to underground mines or (b) the productivity requirements to regraded and revegetated areas. This proposal as presented cannot be considered a specific alternative for a State program. It is, instead, an appeal by Illinois for OSM to reevaluate 30 CFR 738.27, 785.17 and 823, which apply prime farmland requirements to underground mines, and 817.116, which applies a productivity requirement. OSM is assessing the appropriateness of these and other regulations in separate actions.

6. Illinois raised a question concerning 30 CFR 764.17, which establishes requirements for hearings called for in the process for designating lands unsuitable for surface coal mining. The Secretary's regulations require the hearings to be legislative and fact-

finding in nature without cross-examination of witnesses. Illinois proposed to allow cross-examination and other adjudicatory procedures in the hearing. Under the rule being published today the Illinois proposal might be approved if the State demonstrated that its proposal would be as effective as 30 CFR 764.17 in protecting the public right to participate in suitability hearings. In particular, the State could allow adjudicatory hearings if the proposal was consistent with the Act and also provided procedures that offered witnesses some measure of protection from intimidation. The New Mexico State program which was conditionally approved by the Secretary (45 FR 86474, 86475, December 31, 1980) includes adjudicatory hearing provisions which allow the witness to select the procedures which apply to his or her testimony. However, the Secretary requested that New Mexico provide additional detail on how the hearing will operate both in spirit and in practice under this arrangement.

OSM is reassessing the requirements of 30 CFR 764.17 under its separate effort to review all regulations.

7. Complete Applications.—Illinois stated that the meaning of "complete application" as used in 30 CFR 771.21(b)(1) is unclear. This Section establishes the filing deadlines for permit applications following the initial implementation or a permanent regulatory program. The State proposed that the words "and complete" which describe the permit application be deleted. Illinois recommended that it be left to the States to establish what is meant by "complete application" by adopting completeness criteria. This proposal could more appropriately be addressed to amending 30 CFR 771.21(b)(1). However, under the rule being published today, State programs could include criteria for establishing completeness different from those currently specified in 30 CFR 771.23, provided that the State alternatives are as effective as 771.23 in ensuring that permit applications contain all the information required by the Act.

8. Minor disturbances.—Illinois proposed to exempt minor disturbances, such as where fence posts or power poles are located, from the topsoil removal and other requirements set in 30 CFR 816.22(b) and 817.22(b). The Secretary believes that the existing regulations do not require full treatment for minor disturbances such as those described by Illinois. The regulatory authority has discretion on a site-by-site basis to allow for separate procedures

where there are minor disturbances to the lands.

9. Illinois proposed, on a case-by-case basis, to allow incline side slopes and final cut spoil surrounding impoundments to be left at a slope not to exceed the angle of repose if: (1) perimeter slopes are stable and compatible with the intended use of the impoundment and (2) the impoundment has been approved in accordance with 30 CFR 816.133(c) and 817.133(c), if necessary. The alternative is proposed to maximize the amount of relatively flat land surrounding permanent water impoundments while at the same time insuring stability of the slope.

What, in effect, the State proposes is the elimination of a design criterion set in 816.49(c) of the regulations: perimeter slopes of impoundments not to exceed 2h:1v. The related requirements in the Act include Section 515(b)(4), which requires stabilization and protection of all surface coal mining and reclamation operations to effectively control erosion and attendant air and water pollution, and section 515(b)(8)(B) of the Act which requires that impoundment dam design and construction be such as to achieve stability and insure as adequate a safety margin as such structures built in accordance with the Watershed Protection and Flood Prevention Act must achieve. Instead of the design criterion in § 816.49(c), the State proposal would allow perimeter slopes up to the angle of repose and would require the impoundment to meet the general requirements for postmining land use in §§ 816.133 or 817.133 of the regulations. The proposal could well be approvable if it is "as effective as" the Secretary's regulations in assuring that (1) side slopes would only be approved where stabilization and protection of surface areas were assured so as to effectively control erosion and attendant air and water pollution and (2) the associated design and construction of the dam meets 515(b)(8)(B) of the Act. However, more information is necessary in order to evaluate whether such a proposal is no less effective than provisions in the Secretary's regulations.

The Environmental Policy Institute and the National Wildlife Federation and other groups submitted several examples that did not actually propose alternatives to the Secretary's regulations but were questions concerning the flexibility that States would be allowed under the revised rules with respect to various provisions of the Act or OSM's regulations relating to enforcement, civil penalties and citizens' rights.

These questions generally raise issues concerning requirements contained in

the Act for State programs. 30 CFR 730.5(a) establishes the standard for testing provisions in a State program against the requirements of the Act and remains unchanged by this rulemaking. In order for a State program provision to be in accordance with the Act, as defined in 30 CFR 730.5(a), quoted above, it must be no less stringent than the comparable provision in the Act. In addition section 521(d) of the Act requires State program enforcement provisions to contain the same or similar procedural requirements as contained in section 521 and section 518(i) of the Act requires State program penalty provisions to contain the same or similar procedural requirements as contained in Section 518. Many of the commenters' questions relate to provisions in the Act that are specifically applicable to the Secretary and through the existing State program approval regulations in 30 CFR 732.15(b) are made requirements in State programs. The rule change being finalized today has no bearing on these requirements since they have been interpreted as requirements of the Act itself. Many of these requirements are being studied under OSM's regulatory reform effort, and changes in the current interpretations may be undertaken through separate rulemaking.

Although the commenters' examples were not submitted in the format invited, OSM has endeavored to respond to each. Below, following a restatement of each of the commenters' questions, is OSM's response.

Enforcement

1. Must the issuance of all citations be mandatory?

Sections 521(a)(2) and (3) of the Act prescribe for the Secretary or his authorized representative mandatory issuance of all citations. 30 CFR 732.15(b)(8) of the Secretary's regulations prescribes these requirement for State programs, and section 512(d) of the Act requires State program enforcement provisions to incorporate sanctions no less stringent than those set forth in section 521 of the Act and to contain the same or similar procedural requirements relating thereto.

These provisions requiring State programs to contain procedures for mandatory issuance of citations are not altered by the rule change being finalized today.

2. Must there be issuance by a field inspector of all citations (except show cause orders) immediately upon observance of conditions or practices constituting a violation or hazard?

Section 521(a)(2) of the Act only prescribes for the Secretary or his authorized representative the

requirement to immediately issue cessation orders for conditions, practices or violations creating an imminent danger to the health or safety of the public or causing, or can reasonably be expected to cause, significant imminent environmental harm to land, air or water resources. 30 CFR 732.15(b)(8) prescribes this requirement for State programs and section 521(d) of the Act requires State program enforcement provisions to incorporate sanctions no less stringent than those set forth in section 521 of the Act and to contain the same or similar procedural requirements relating thereto. These provisions governing immediate issuance of cessation orders are not altered by the rule change being finalized today. With respect to notices of violations not constituting hazards, the Act does not specifically state that these must be issued "immediately." However, § 843.14 of the Secretary's regulations requires that all notices of violation be served promptly after issuance.

3. Must the State issue a summary cessation order for ongoing or potential environmental harm in at least the same situations in which significant imminent environmental harm cessation orders would be issued?

Section 521(a)(2) of the Act prescribes for the Secretary or his authorized representative minimum requirements with respect to the issuance of cessation orders for violations involving environmental harm. 30 CFR 732.15(b)(8) prescribes these minimum requirements for State programs and section 521(d) of the Act requires State program enforcement provisions to incorporate sanctions no less stringent than those set forth in section 521 of the Act and to contain the same or similar procedural requirements relating thereto. These requirements provide that a cessation order must be issued immediately upon detection of a condition or practice which is causing, or can be reasonably expected to cause, significant imminent environmental harm to land, air or water resources. These provisions governing cessation orders for State programs are not altered by the rule change being finalized today.

4. Must the State issue a summary cessation order for danger to public health or safety in at least the same situations as an imminent danger order would be issued?

Section 521(a)(2) of the Act prescribes for the Secretary or his authorized representative minimum requirements with respect to the issuance of cessation orders for violations involving public safety. 30 CFR 732.15(b)(8) prescribes

these requirements for State programs and section 521(d) of the Act requires State program enforcement provisions to incorporate sanctions no less stringent than those set forth in section 521 of the Act and to contain the same or similar procedural requirements relating thereto. These provisions provide that a cessation order must be issued immediately upon detection of a condition, practice, or violation which creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause, significant, imminent environmental harm. Thus, if the danger to public health or safety can reasonably be expected to cause significant imminent environmental harm a cessation order must be issued under a State program. These provisions are not altered by the rule change being finalized today.

5. Must the State issue a notice of violation with a reasonable time to abate (but no longer than 90 days) whenever a field inspector discerns a violation?

Section 521(a)(3) of the Act establishes that the Secretary or his authorized representative shall issue a notice to the permittee or his agent for a violation that does not create an imminent danger to the health or safety of the public, or cannot be reasonably expected to cause significant, imminent environmental harm to land, air or water resources and that the notice shall fix a reasonable time (but not more than 90 days) for abatement of the violation. 30 CFR 732.15(b)(8) prescribes these requirements for State programs and Section 521(d) of the Act requires State program enforcement provisions to incorporate sanctions no less stringent than those set forth in Section 521 of the Act and to contain the same or similar procedural requirements relating thereto. These requirements for State programs are not altered by the rule change being finalized today.

Subchapter L of the Secretary's regulations sets forth general rules regarding enforcement. Under the rule change being finalized today the "as effective as" test would be the standard for State alternatives to these rules.

The Secretary has found that there are certain very limited cases where, because of certain circumstances beyond a permittee's control, abatement within 90 days is not feasible or would cause greater environmental harm than would abatement at a later date. OSM believes that Congress did not intend that the 90 day requirement of section 521(a)(3) of the Act apply in such cases. Therefore, OSM promulgated a rule on August 17, 1981 (46 FR 41703) amending

Subchapter L which identifies those limited circumstances where abatement times in excess of 90 days will be permitted and sets forth the conditions that will apply to these situations.

A state program must include a provision requiring the State regulatory authority to establish an abatement period of not longer than 90 days whenever the field inspector determines a violation exists. Exceptions to the 90-day abatement period could be allowed under the circumstances listed in the August 17, 1981, rule.

6. Must the State issue a summary cessation order whenever a violation is not abated in the time set and there is not good cause to extend the abatement period?

Section 521(a)(3) establishes for the Secretary or his authorized representative minimum requirements for enforcement for failure to abate a violation. It provides that a cessation order be issued immediately if, upon expiration of the period of time as originally fixed or subsequently extended, a violation has not been abated. 30 CFR 732.15(b)(8) of the Secretary's regulations prescribed these requirements for State programs and section 521(d) of the Act requires State program enforcement provisions to incorporate sanctions no less stringent than those set forth in section 521 of the Act and to contain the same or similar procedural requirements related thereto. These are not altered by the rule change being finalized today.

Subchapter L of the Secretary's regulations sets forth general rules regarding enforcement. Under the rule change being finalized today the "as effective as" test would be the standard for State alternatives to these rules.

7. Must the State program include a requirement that field inspectors impose affirmative obligations to abate the violation or hazard as expeditiously as physically possible where cessation of mining does not remove the danger or violation?

Section 521(a)(2) prescribes that the Secretary or his authorized representative shall, in addition to the cessation order, impose affirmative obligations on the operator if the cessation of mining and reclamation operations will not completely abate the imminent danger to the public or environment. 30 CFR 732.15(b)(8) of the Secretary's regulations prescribes these requirements for State programs, and Section 521(d) of the Act requires State program enforcement provisions to incorporate sanctions no less stringent than those set forth in section 521 of the Act and to contain the same or similar procedural requirements related thereto.

These requirements are not altered by the rule change being finalized today.

Section 843.11(b)(2) of the Secretary's regulations requires that cessation orders shall require the person to whom it is issued to take all steps deemed necessary to abate the violations in the most expeditious manner physically possible. Under the rule change being finalized today the "as effective as" test would be the standard for State alternatives to 30 CFR 843.11(b)(2).

8. Must the State grant authority to field inspectors to impose interim steps in the abatement process which the permittee must meet or face cessation?

Section 521(a)(1) of the Act requires that the Secretary shall, in addition to the cessation order, impose affirmative obligations on the operator requiring him to take whatever steps the Secretary deems necessary to abate the imminent danger or the significant environmental harm. 30 CFR 732.15(b)(8) of the Secretary's regulations applies this requirement to State programs and section 521(d) of the Act requires State program enforcement provisions to incorporate sanctions no less stringent than those set forth in Section 521 of the Act and to contain the same or similar procedural requirements relating thereto. These requirements are not altered by the rule change being finalized today.

Provisions for interim steps are included in § 843.12 of the Secretary's regulations establishing that an inspector may specify interim steps that the operator must complete and the times for accomplishment of those steps. If the operator fails to accomplish the interim steps within the time established, the inspector must issue a cessation order. Under the rule change being finalized today the "as effective as" test would be the standard for State alternatives to the Secretary's provisions for interim steps. Under its separate effort toward regulatory reform, OSM is considering proposing a revision to this rule to make discretionary the issuance of a cessation order for failure to meet an interim step.

9. Must there be provisions for the suspension and revocation of permits in at least those situations and at least to the same extent that permits would be suspended or revoked under Federal law?

Section 521 of the Act prescribes for the Secretary provisions for the suspension and revocation of permits. 30 CFR 732.15(b)(8) of the Secretary's regulations prescribes these provisions for State programs and section 521(d) of the Act requires State program enforcement provisions to incorporate

sanctions no less stringent than those set forth in section 521 of the Act and to contain the same or similar procedural requirements relating thereto. These requirements are not altered by the rule change being finalized today.

Subchapter L of the Secretary's regulations sets forth general provisions regarding enforcement. Under the rule change being finalized today the "as effective as" test would be the standard for State alternatives to these rules.

10. Where the enforcement sanctions are concerned, may the State program provide for more discretion to take enforcement actions than that possessed by OSM or OHA under the Federal statute and regulations?

Section 521 of the Act provides little discretion in the initiation of any notice or order. 30 CFR 732.15(b)(8) of the Secretary's regulations prescribes the requirements of section 521 for State programs. The regulatory authority must take the prescribed enforcement action under those circumstances specified in the Act and the rule change does not alter these requirements.

In the case of show cause orders for pattern of violations, the Act does not specify what constitutes a pattern of violations. OSM's regulations establish those events or conditions which constitute a pattern of violations. The rule change being finalized today would be applicable to any alternative that a State might propose to OSM's definition of "pattern of violations." That is, any alternative that a State might propose would have to be "as effective as" OSM's rule in meeting the purposes of the Act.

Citizen Rights

1. Must the State law allow the citizen at least as much access to the mine site as he has under the Federal law?

Section 521(a)(1) of the Act prescribes for the Secretary or his authorized representative the requirement that persons who have provided information resulting in a Federal inspection be allowed to accompany the inspector during the inspection. Section 732.15(b)(8) of the Secretary's regulations prescribes this requirement for State programs. The rulemaking being finalized today does not alter this requirement.

Subchapter L of the Secretary's regulations sets forth general provisions regarding enforcement. Under the rule change being finalized today the "as effective as" test would be the standard for State alternatives to these rules.

2. Must the State law authorize compensation for citizens for participation in all adjudicatory (in accordance with 43 CFR 4.1284) and

non-adjudicatory (rulemaking, permit hearing, etc.) proceedings held by the State? Must the State be required to budget adequate monies for this participation and must the State law allow fee awards against the State and against permittees in accordance with 43 CFR 4.1284?

Section 525(e) of the Act requires:

Whenever an order is issued under section 525, or as a result of any administrative proceeding under the Act, at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the Secretary to have been reasonably incurred by such person for or in connection with his participation in such proceedings, including any judicial review of agency actions, may be assessed against either party as the court, resulting from judicial review or the Secretary, resulting from administrative proceedings, deems proper.

30 CFR 732.15(b)(15) prescribes the above provisions and others included in section 525 of the Act as requirements for State programs and these requirements are not altered by the rulemaking being finalized today. In addition, 30 CFR 732.15(b)(15) requires State programs to be consistent with Subchapter L of the Secretary's regulations. 30 CFR 840.15 within Subchapter L requires compliance with 43 CFR Part 4. Under the rule change being finalized today States could propose alternatives to the requirements contained in 43 CFR Part 4 for compensation for citizens participation in adjudicatory proceedings. These alternatives must be in accordance with the requirements of section 525 of the Act and would be evaluated under the "as effective as" standard.

OSM is currently reviewing the present regulatory requirement that State programs authorized compensation for citizens for participation in all adjudicatory proceedings held by the State. Any change in the present requirements would occur following a revision of the existing interpretation of the requirements in the Act and an appropriate rule change to the requirements for State programs.

There is no explicit provision in the Secretary's regulations for compensation to citizens for participation in non-adjudicatory proceedings. Therefore, there is no basis for requiring such a provision in a State program under the Secretary's regulations.

There is no requirement in either the Act or the Secretary's regulations requiring a State to budget adequate funds for citizen participation. This same question was submitted as part of

a comment on the proposed State program public participation provisions of OSM's permanent program rules, 30 CFR 732.15(b)(10); and the suggestion of such a requirement was rejected. 44 FR 14964-14965 (March 13, 1979). The ground for rejection was that flexibility was needed so that States could shape the public participation provisions of their programs and select the methods best suited for their individual conditions.

3. Must the State law provide citizens with the right to request inspections and participate in the resulting inspection?

See the answer to question number one under Citizen Rights.

4. Must the State establish an administrative review procedure similar to that contained in section 525, 43 CFR 4.2 *et seq.*, and 30 CFR Part 722? Must this system allow for at least the same citizen access to the administrative review process as exists under Federal law? For example, must there be administrative procedures for review of civil penalties, not simply access to the State court system, as urged by at least one State?

Section 525 of the Act requires the Secretary to establish administrative review for his decisions and actions under the Act. 30 CFR 732.15(b)(15) and 840.15 prescribe these requirements for State programs. The rulemaking being finalized today does not alter these requirements.

5. Must the State law allow citizens as much access to the State courts as the Federal law allows to Federal court, in areas such as citizen suits, damage actions, review of enforcement proceedings, rulemakings, permit applications, etc?

Section 520 of the Act gives affected citizens a right to bring suits in Federal court to compel compliance with the Act. 30 CFR 732.15(b)(10) requires that State programs provide for public participation in the enforcement of State programs consistent with the requirements of the Act. The rulemaking being finalized today does not alter these requirements.

6. Must the State provide citizens with as much access to information regarding surface mining and reclamation operations and regulatory authority activities as is permitted under Federal law to Federal information and documents?

30 CFR 732.15(b)(5) establishes that State programs must include provisions of section 517 of the Act including Section 517(f) concerning the availability of records. The rule change does not alter these requirements. 30 CFR 840.14 sets the standards for

information availability and the "as effective as" test could be applied to this regulation.

Civil Penalty Provisions

The Environmental Policy Institute and the National Wildlife Federation posed the following series of eight questions regarding the effect of the amended rule on the areas of civil penalty requirements. "Within this framework, under the proposed standard: (1) Must any civil penalty system demonstrate that it will result in fines that are at least as high as the fines assessed and collected by OSM; (2) Must any civil penalty system demonstrate that it will assess penalties for violations in circumstances in which fines would be assessed by OSM; (3) Must any civil penalty system demonstrate that it will assess daily fines in at least those situations in which such fines would be assessed by OSM; (4) Must any civil penalty system demonstrate that it has a procedure to review significant reductions in assessed fines; (5) Must any civil penalty system demonstrate that it has provisions which will result in the prepayment of fines of permittees; (6) Must any civil penalty system consider the four criteria enumerated by the statute in assessing a penalty; (7) Must any civil penalty system provide for at least as much citizen participation as permitted under the Federal system; (8) Must any civil penalty system contain procedures which are the same as or similar to Federal procedures."

As indicated in response to questions concerning other areas of a State program, requirements of the Act must be met in all cases under any alternative. As required under section 518(i) of the Act, State programs must include civil and criminal penalties no less stringent than those set forth in Section 518 and shall contain the same or similar procedural requirements relating thereto.

Any provision of the Secretary's regulations not required by section 518(i) may be varied so long as the alternative can be judged to be in accordance with the requirements of the Act and to be "no less effective" than the Secretary's provision in meeting the requirements of the Act.

The U.S. District Court for the District of Columbia in *In re: Permanent Surface Mining Regulation Litigation*, No. 79-1144, February 28, 1980, issued a decision regarding civil penalties and State programs. The Court indicated that while section 518(i) of the Act requires a State to incorporate the four criteria for penalty assessments found in subsection 518(a), and the procedures explicated in section 518, the Secretary does not have authority to require States to adopt a point system.

Section 518 of the Act establishes provisions for penalties for the Secretary and these requirements are prescribed for State programs under § 732.15(b)(7) of the regulations. Section 518(i) establishes as a condition of approval, that State programs must, at a minimum, incorporate penalties no less stringent than those set forth in section 518 and shall contain the same or similar procedural requirements relating thereto. This requirement must, however, be viewed in light of the District Court decision cited above. Therefore, the answer to the commenters' eight questions is that the rulemaking being finalized today does not alter the requirements imposed in the past.

Determination of Effects

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order No. 12291. The Department has also determined that the rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, Pub. L. 96-354 5 U.S.C. 601 *et seq.* In addition, the Department has determined that this rule does not constitute a major Federal action having a significant effect on the quality of the human environment under the National Environmental Policy Act.

The information collection requirements currently found in 30 CFR 731.13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029-0023. Since the requirement is being deleted the reference to 30 CFR 731.13 is being

deleted from the "Note:" at the beginning of 30 CFR Part 731.

Primary authors of this document are Mary Tisdale, James Fulton and Arthur Abbs, Division of State Programs Assistance, Office of Surface Mining.

Dated: October 16, 1981.

Daniel N. Miller, Jr.,

Assistant Secretary, Energy and Minerals.

PART 730—GENERAL REQUIREMENTS

1. 30 CFR 730 is amended by revising § 730.5(b) to read as set forth below:

§ 730.5 Definitions.

* * * * *

(b) With regard to the Secretary's regulations, the State laws and regulations are no less effective than the Secretary's regulations in meeting the requirements of the Act.

* * * * *

PART 731—SUBMISSION OF STATE PROGRAMS

§ 731.1 [Amended].

2. 30 CFR 731 is amended by revising the "Note:" paragraph immediately preceding § 731.1 to delete the reference to § 731.13.

§ 731.13 [Removed].

3. 30 CFR 731 is amended by removing § 731.13 in its entirety.

PART 732—PROCEDURES AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF STATE PROGRAM SUBMISSIONS

4. 30 CFR 732 is amended by revising § 732.15(a) to read as follows:

§ 732.15 Criteria for Approval or Disapproval of State Programs.

* * * * *

(a) The program provides for the State to carry out the provisions and meet the purposes of the Act and this Chapter within the State and that the State's laws and regulations are in accordance with the provisions of the Act and consistent with the requirements of the Chapter.

* * * * *

(Secs. 102, 210(c) *et seq.*, Pub. L. 95-87)

[FR Doc. 81-31249 Filed 10-27-81; 8:45 am]

BILLING CODE 4310-05-M

Wednesday
October 28, 1981

Part VII

**Environmental
Protection Agency**

**Administrator's Toxic Substances
Advisory Committee, Postponent of
Meeting**

**ENVIRONMENTAL PROTECTION
AGENCY**

40 CFR Ch. I

[OPTS 00028A]

**Administrator's Toxic Substances
Advisory Committee Postponement of
Meeting****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Proposed Rule Related Notice.

SUMMARY: The meeting of the Administrator's Toxic Substances Advisory Committee scheduled for Thursday and Friday, October 29 and 30, 1981, notice of which appeared in the Federal Register of October 7, 1981 (46 FR 49604), has been postponed.

DATE: The rescheduled meeting will be held in December.

ADDRESS: The location of the meeting will be announced later.

FOR FURTHER INFORMATION CONTACT: Byron Nelson, Director, Office of Public Affairs (A-107), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202-755-0453).

SUPPLEMENTARY INFORMATION: The October 29 and 30, 1981 meeting of the Administrator's Toxic Substances Advisory Committee has been postponed to December. Detailed information on the time and location of the meeting will appear in the Federal Register at a later date.

Dated: October 26, 1981.

Don R. Clay,

*Acting Assistant Administrator for Pesticides
and Toxic Substances.*

[FR Doc. 81-31479 Filed 10-27-81; 8:56 am]

BILLING CODE 6560-31-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS*		DOT/FHWA	USDA/SCS*
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

*Note: The Soil Conservation Service will begin Tues/Fri. publication as of Nov. 3, 1981.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Deadlines for Comments on Proposed Rules for the Week of November 1 through November 7, 1981

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

- 49908 10-8-81 / Milk marketing orders; Lake Mead area; comments by 11-4-81

[See also 46 FR 45776, 9-15-81]

Animal and Plant Health Inspection Service—

- 44144 9-2-81 / Mediterranean fruit fly; restriction of Los Angeles, San Benito and Santa Cruz Counties, Calif.; interim rule; comments by 11-2-81

Food and Nutrition Service—

- 51363 10-20-81 / Special Milk Program and private school participation; comments by 11-4-81

Rural Electrification Administration—

- 44472 9-4-81 / Public information; Appendix A—REA bulletins; specification for low-loss buried distribution wire, PE-44, Bulletin 345-42 and specification for plastic-insulated line wire, PE-21, Bulletin 345-17; comments by 11-3-81

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

- 47744 9-29-81 / Proposed rescission of minimum guidelines and requirements for standards for accessibility and usability of Federal and federally-funded building; comments by 11-6-81

[See also 46 FR 39764, 8-4-81]

COMMERCE DEPARTMENT

International Trade Administration—

- 43842 9-1-81 / Effects of foreign policy export controls; comments by 11-2-81

National Oceanic and Atmospheric Administration—

- 45969 9-16-81 / Northern Anchorage Fishery Management Plan; initial approval and availability of Plan amendment; comments by 11-2-81

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

- 49137 10-6-81 / Time deposits of less than \$100,000 with original maturities of 3½ years or more; comments by 11-6-81

ENERGY DEPARTMENT

- 49546 10-6-81 / Nondiscrimination on the basis of age; comments by 11-5-81

Economic Regulatory Administration—

- 48118 10-1-81 / Electric power plants; established procedures for owners and operators; comments by 11-2-81

- 44696 9-4-81 / Import and export of material gas; new administrative procedures; comments by 11-3-81

[See also 46 FR 49909, 10-8-81]

Federal Energy Regulatory Commission—

- 50085 10-9-81 / New Mexico; high-cost gas produced from tight formations; comments by 11-2-81

ENVIRONMENTAL PROTECTION AGENCY

- 48927 10-5-81 / Air quality; designation of areas; approval of redesignation of attainment status; District of Columbia; final rule; comments by 11-4-81

- 43855 9-1-81 / Indiana, approval and promulgation of State Implementation Plan; comments by 11-2-81

- 31677 6-17-81 / 1984 heavy-duty engine requirements; comments by 11-1-81

- 49814 10-7-81 / Stack height regulations; comments by 11-3-81

- 48240 10-1-81 / State implementation plan revision; State of Md.; comments by 11-2-81

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- 43848 9-1-81 / The Equal Pay Act, interpretations; comments by 11-2-81

FEDERAL COMMUNICATIONS COMMISSION

- 45635 9-14-81 / Digital Termination Systems; allocation of a portion of a specific GHz band and associated point-to-point intermodal links to supplement recently allocated GHz band for DTS; comments by 11-2-81

- 45166 9-10-81 / FM broadcast station in Charleston, W. Va.; changes in table of assignments; comments by 11-2-81
- 45167 9-10-81 / FM broadcast station in Greenville, Ala.; changes in table of assignments; comments by 11-2-81
- 42474 8-21-81 / FM broadcast station in Hilo, Hawaii; changes in table of assignments; reply comments by 11-2-81
- 42475 8-21-81 / FM broadcast station in Petosky, Mich.; changes in table of assignments; reply comments by 11-2-81
- 42477 8-21-81 / FM broadcast station in Redding, Calif.; changes in table of assignments; reply comments by 11-2-81
- 45169 9-10-81 / FM broadcast station in Thoreau, N. Mex.; changes in table of assignments; comments by 11-2-81
- 45170 9-10-81 / FM broadcast station in West Liberty and Flemingsburg, Ky.; changes in table of assignments; comments by 11-2-81
- 42703 8-24-81 / FM broadcast stations in Greenfield and Springfield, Mo.; changes in table of assignments; reply comments by 11-2-81
- 42701 8-24-81 / FM broadcast stations in Hudson and Adrian, Mich.; and Swanton, Ohio; reply comments by 11-2-81
- 42483 8-21-81 / FM broadcast stations in Truth or Consequences, N. Mex.; changes in table of assignments; reply comments by 11-2-81
- 46147 9-17-81 / Future role of television translators and low-power television broadcasting; reply comments by 11-1-81 [See also 46 FR 42478, 8-21-81]
- 43190 8-27-81 / Revision of programming policies and reporting requirements related to public broadcasting licensees; comments by 11-2-81

HEALTH AND HUMAN SERVICES DEPARTMENT**Food and Drug Administration—**

- 49114 10-6-81 / Fermented ammoniated condensed whey; liquid feed supplement for cattle; objections by 11-5-81
- 49115 10-6-81 / Selenium; providing for safe use as a nutrient in duck feeds; objections by 11-5-81

Human Development Services Office—

- 48606 10-1-81 / Work Incentive Program for AFDC recipients under Title IV of the Social Security Act; comments by 11-2-81
- Public Health Service—**
- 39976 8-5-81 / Obligated service for mental health traineeships (rule); comments by 11-3-81

INTERIOR DEPARTMENT**Geological Survey—**

- 48951 10-5-81 / Outer Continental Shelf; oil, gas, and sulphur operations; environmental reports; tiering; comments by 11-4-81
- 48952 10-5-81 / Outer Continental Shelf; oil, gas, and sulphur operations; reimbursement to lessees and permittees; comments by 11-4-81

Land Management Bureau—

- 43950 9-1-81 / Geothermal resources leasing; comments by 11-2-81
- Surface Mining Reclamation and Enforcement Office—**
- 49141 10-6-81 / Abandoned mine lands reclamation program; North Dakota; comments by 11-5-81
- 49143 10-6-81 / Abandoned mine lands reclamation program; Oklahoma; comments by 11-5-81

INTERSTATE COMMERCE COMMISSION

- 34819 7-6-81 / Motor carrier classification system; interim policy statement; comment period extended to 11-3-81
- [See also 46 FR 27732, 5-21-81]

- 45966 9-16-81 / Revision to railroad annual Report Form R-1; comments by 11-2-81

- 45967 9-16-81 / Revisions to annual motor carrier reporting requirements; comments by 11-2-81

JUSTICE DEPARTMENT

- 48921 10-5-81 / Equal Access to Justice Act; implementation; interim rule; comments by 11-4-81

LABOR DEPARTMENT**Employment and Training Administration—**

- 44730 9-4-81 / Comprehensive Employment and Training Act (CETA) regulations; Governors Special Grant Programs under Title II and Youth Programs under Title IV; comments by 11-1-81

- 48606 10-1-81 / Work Incentive Program for AFDC recipients under Title IV of the Social Security Act; comments by 11-2-81

Office of the Secretary—

- 49542 10-6-81 / Subpoenas served on Departmental employees; procedures to be followed; comments by 11-5-81

LIBRARY OF CONGRESS**Copyright Office—**

- 49145 10-6-81 / Registration of claims to renewal of copyright; comments by 11-6-81

NUCLEAR REGULATORY COMMISSION

- 35280 7-8-81 / Technical criteria for disposal of high-level radioactive wastes in geologic repositories; comments by 11-5-81

SECURITIES AND EXCHANGE COMMISSION

- 49594 10-7-81 / Designation of national market system securities; comments by 11-6-81

STATE DEPARTMENT

- 48884 10-2-81 / Change in fees for consular services; comments by 11-2-81

TRANSPORTATION DEPARTMENT**National Highway Traffic Safety Administration—**

- 46604 9-21-81 / Federal Motor Vehicle Safety Standards; fields of direct view; reply comments by 11-5-81

TREASURY DEPARTMENT**Alcohol, Tobacco and Firearms Bureau—**

- 39852 8-5-81 / Establishment of Leelanau Peninsula viticultural area; comments by 11-3-81
- 40045 8-6-81 / Establishment of a viticultural area in San Benito County, Calif., to be known as "Paicines"; comments by 11-4-81

- 39849 8-5-81 / Multi-vintage labeling for wine; comments by 11-3-81

Customs Service—

- 44195 9-3-81 / Discharge of an importer's liability for duties; comments by 11-2-81

WATER RESOURCES COUNCIL

- 39972 8-5-81 / Biomass-ethanol commercial project, South Point, Ohio; availability of water assessment report; comments by 11-3-81

Deadlines for Comments on Proposed Rules for the Week of November 8 through November 14, 1981

AGRICULTURE DEPARTMENT**Animal and Plant Health Inspection Service—**

- 45616 9-14-81 / Viruses, serums, toxins, and analogous products; revision of packaging biological products; comments by 11-13-81

Farmers Home Administration—

- 50080 10-9-81 / New full-time family farmer and rancher development project; comments by 11-9-81

ENERGY DEPARTMENT**Federal Energy Regulatory Commission—**

- 50563 10-14-81 / Colorado; high-cost gas produced from tight formations (2 documents); comments by 11-9-81
- 50564 10-14-81 / Colorado; high-cost gas produced from tight formations (2 documents); comments by 11-9-81
- 50517 10-14-81 / Sale of electric power to the Bonneville Power Administration; filing of rate schedules; comments by 11-13-81

ENVIRONMENTAL PROTECTION AGENCY

- 45158 9-10-81 / Approval and promulgation of State implementation plan; Missouri; comments by 11-9-81
- 45963 9-16-81 / Grants; State and local assistance; treatment works construction; procurement system requirements; implementation of OMB Circulars A-102 and A-110, Attachments O; availability of preliminary regulations; comments by 11-10-81
- 44970 9-8-81 / Hazardous Waste Management system; identification and listing of hazardous waste; comments by 11-9-81
- 45626 9-14-81 / State implementation plans; revision; Commonwealth of Virginia; comments by 11-13-81
- 48955 10-5-81 / Water pollution control; State underground injection control program; New Mexico Oil Conservation Division primacy application; comments by 11-12-81

FEDERAL COMMUNICATIONS COMMISSION

- 50573 10-14-81 / Frequency band available exclusively for Vessel Traffic Service (BTS) Communications in the Houston VTS radio protected area; comments by 11-9-81
- 43204 8-27-81 / FM broadcast station in Bismarck, N. Dak.; changes in table of assignments; reply comments by 11-9-81
- 43215 8-27-81 / FM broadcast station in Blakely, Ga.; changes in table of assignments; reply comments by 11-9-81
- 43203 8-27-81 / FM broadcast station in Cape Coral, Fla.; changes in table of assignments; reply comments by 11-9-81
- 44008 8-27-81 / FM broadcast station in Cheney, Grand Coulee, and Spokane, Wash., table of assignments; reply comments by 11-9-81
- 43202 8-27-81 / FM broadcast station in Durant, Okla.; changes in table of assignments; reply comments by 11-9-81
- 43201 8-27-81 / FM broadcast station in Ellijay, Ga.; changes in table of assignments; reply comments by 11-9-81
- 43209 8-27-81 / FM broadcast station in Goose Creek, S.C.; changes in table of assignments; reply comments by 11-9-81
- 43208 8-27-81 / FM broadcast station in Kodiak, Alaska; changes in table of assignments; reply comments by 11-9-81
- 43213 8-27-81 / FM broadcast station in Kremmling, Colo.; changes in table of assignments; reply comments by 11-9-81
- 43207 8-27-81 / FM broadcast station in Las Vegas, Nev.; changes in table of assignments; reply comments by 11-9-81
- 43216 8-27-81 / FM broadcast station in Leoti, Kans.; changes in table of assignments; reply comments by 11-9-81
- 43206 8-27-81 / FM broadcast station in Naknek, Ala.; changes in table of assignments; reply comments by 11-9-81
- 43212 8-27-81 / FM broadcast station in Riverton, Wyo.; changes in table of assignments; reply comments by 11-9-81
- 43211 8-27-81 / FM broadcast station in Sidney, Nebr.; changes in table of assignments; reply comments by 11-9-81
- 43217 8-27-81 / FM broadcast station in Virginia Beach, Va.; changes in table of assignments; reply comments by 11-9-81

- 44011 9-2-81 / FM broadcast station in Winamac, Ind.; table of assignments; reply comments by 11-9-81
- 43210 8-27-81 / FM broadcast station in Woodstock, Va.; changes in table of assignments; reply comments by 11-9-81
- 43715 8-31-81 / FM broadcast station; changes in table of assignments; Fairfield, Tx.; reply comments by 11-9-81
- 43717 8-31-81 / FM broadcast station; changes in table of assignments; Fairmont, W. Va.; reply comments by 11-9-81
- 43712 8-31-81 / FM broadcast station; changes in table of assignments; Palm Springs, Calif.; reply comments by 11-9-81
- 43714 8-31-81 / FM broadcast station; changes in table of assignments; Williston and Micanopy, Fla.; reply comments by 11-9-81
- 49622 10-7-81 / Redefining classes of coast stations by mode and area of operation and frequency band; comments by 11-9-81
- 43716 8-31-81 / TV broadcast station; changes in table of assignments; Alvin, Tex.; reply comments by 11-9-81

FEDERAL MARITIME COMMISSION

- 44998 9-9-81 / Dualrate contract systems in Foreign Commerce of U.S.; amendment to allow a third rebuttable presumption; comments by 11-9-81

GENERAL SERVICES ADMINISTRATION

- 45163 9-10-81 / Gasohol in Federal motor vehicles; guidelines for purchase and use; comments by 11-9-81
- National Archives and Records Service—
- 44788 9-8-81 / Records management; updating certain fire safety requirements; comments by 11-9-81

HOUSING AND URBAN DEVELOPMENT DEPARTMENT**Community Planning and Development, Office of Assistant Secretary—**

- 45603 9-14-81 / Community Development Block Grant Program; revisions to urban county qualification requirements; procedures for joint applications from urban counties and metropolitan cities; and qualification of towns and townships as metropolitan cities; comments by 11-13-81
- Federal Housing Commission—Office of Assistant Secretary for Housing
- 51903 10-23-81 / Section 8 housing assistance payments program—financing adjustment for fair market rents; comments by 11-9-81

INTERIOR DEPARTMENT**Fish and Wildlife Service—**

- 49925 10-8-81 / Eagle permits; taking of golden eagle nests; comments by 11-9-81

[See also 45 FR 809, 1-3-80]

Indian Affairs Bureau—

- 50565 10-14-81 / Preparation of role of Mohave descendants enrolled as members of the Colorado River Indian Tribes; comments by 11-13-81

INTERSTATE COMMERCE COMMISSION

- 49151 10-6-81 / Lease and interchange of vehicles; comments extended to 11-9-81
- [See also 46 FR 44013, 9-2-81]

JUSTICE DEPARTMENT**Drug Enforcement Administration—**

- 45156 9-10-81 / Schedules of controlled substances; proposed placement of N-ethylamphetamine into Schedule I; comments by 11-9-81

NATIONAL CREDIT UNION ADMINISTRATION

- 50085 10-9-81 / Organization and operation of Federal Credit Unions share, share draft and share certificate accounts; comments by 11-9-81

NUCLEAR REGULATION COMMISSION

- 46960 9-23-81 / Debt collection procedures; comments by 11-9-81
- 45144 9-10-81 / Material control and accounting requirements for facilities possessing formula quantities of strategic special nuclear material; comments by 11-9-81

TREASURY DEPARTMENT**Customs Service—**

- 45625 9-14-81 / Changes in field organization; Gramercy, La. and Juneau and Anchorage, Alaska; comments by 11-13-81
- 45626 9-14-81 / Inspection, search, and seizure of vessels by Customs Officers; comments by 11-13-81

Internal Revenue Service—

- 50808 10-15-81 / Income Tax; exclusion for certain conservation cost-sharing payments; comments by 11-12-81

Next Week's Meetings**CIVIL RIGHTS COMMISSION**

- 50575 10-14-81 / Illinois Advisory Committee, Chicago, Ill. (open), 11-2-81
- 51424 10-20-81 / Kansas Advisory Committee, Junction City, Kans. (open), 11-6 and 11-7-81
- 51424 10-20-81 / New York Advisory Committee, New York, N.Y. (open), 11-4-81

COMMERCE DEPARTMENT**Census Bureau—**

- 50576 10-14-81 / Census Advisory Committee of the American Marketing Association, Suitland, Md. (open), 11-5-81

International Trade Administration—

- 49937 10-8-81 / Importers and Retailers' and Management-Labor Textile Advisory Committee, Washington, D.C. (open), 11-5-81

COMMERCE DEPARTMENT**International Trade Administration—**

- 51628 10-21-81 / Telecommunications Equipment Technical Advisory Committee, Fiber Optic Subcommittee, Washington, D.C. (partially open), 11-5-81

National Oceanic and Atmospheric Administration—

- 49938 10-8-81 / Caribbean Fishery Management Council, and its Administrative Subcommittee, San Juan, Puerto Rico (open), 11-3 and 11-4-81

- 49169 10-6-81 / Mid-Atlantic Fishery Management Council, Scientific and Statistical Committee, Philadelphia, Pa. (open), 11-4-81

DEFENSE DEPARTMENT**Air Force Department—**

- 51009 10-16-81 / USAF Scientific Advisory Board, Eglin Air Force Base, Fla. (closed), 11-4 and 11-5-81

Army Department—

- 50580 10-14-81 / Ad Hoc Cost Discipline Advisory Committee, Washington, D.C. (closed), 11-4 and 11-5-81

- 45983 9-16-81 / United States Military Academy, Board of Visitors, West Point, N.Y. (open), 11-5 through 11-7-81

Navy Department—

- 50405 10-13-81 / Academic Advisory Board to the Superintendent, United States Naval Academy, Subcommittee of the Secretary of the Navy's Advisory Board on Education and Training, Annapolis, Md., 11-6-81

- 50406 10-13-81 / Secretary of the Navy's Advisory Committee on Naval History, Washington, D.C. (open), 11-5-81

Office of the Secretary—

- 50580 10-14-81 / Defense Science Board Task Force on Electronic Warfare; Washington, D.C. (closed), 11-4-81

- 50580 10-14-81 / Defense Science Board Task Force on Embedded Computer Resources Acquisition and Management, Washington, D.C. (closed), 11-4 and 11-5-81

- 46987 9-23-81 / Wage Committee, Washington, D.C. (closed), 11-3-81

EDUCATION DEPARTMENT

- 51011 10-16-81 / Education of Disadvantaged Children National Advisory Council (open), 11-4 and 11-5-81

ENERGY DEPARTMENT**Bonneville Power Administration—**

- 50096 10-9-81 / Quantifiable environmental costs and benefits, Portland, Oreg., 11-4-81; Seattle, Wash., 11-5-81 (both sessions open)

Energy Research Office—

- 49640 10-7-81 / DOE/NSF Nuclear Science Advisory committee, Washington, D.C. (open), 11-7 and 11-8-81

[See 46 FR 50819; 10-15-81]

- 51431 10-20-81 / Energy Research Advisory Board, Washington, D.C. (open), 11-4 and 11-5-81

- 50819 10-15-81 / High Energy Physics Advisory Panel, Washington, D.C. (open), 11-1-81

ENVIRONMENTAL PROTECTION AGENCY

- 51284 10-19-81 / State FIFRA Issues Research and Evaluation Group, Working Committee on Registration and Classification, Little Rock, Ark. (open), 11-3 through 11-5-81

GENERAL SERVICES ADMINISTRATION

- 50850 10-15-81 / Computer Programming Language Compiler Validation, Washington, D.C. (open), 11-5-81

HEALTH AND HUMAN SERVICES DEPARTMENT**Food and Drug Administration—**

- 51477 10-20-81 / Chest X-Ray referral criteria panel, Chevy Chase, Md. (partially open), 11-3 and 11-4-81

HEALTH AND HUMAN SERVICES DEPARTMENT**Food and Drug Administration—**

- 51033 10-16-81 / Fertility and Maternal Health Drugs Advisory Committee, Rockville, Md. (open), 11-5 and 11-6-81

Food and Drug Administration—

- 51033 10-16-81 / Ophthalmic; Ear, Nose, and Throat Device Section, Washington, D.C. (open), 11-2 and 11-3-81

- 51033 10-16-81 / Radiopharmaceutical Drugs Advisory Committee, Rockville, Md. (open), 11-6-81

- 51035 10-16-81 / Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, Ophthalmic Device Section (open), 11-6 and 11-7-81

National Institutes of Health—

- 43883 9-1-81 / Allergy and Immunology Study Section, Washington, D.C. (partially open), 11-5 through 11-7-81

- 45817 9-15-81 / Animal Resources Review Committee; Animal Resources Subcommittee, Bethesda, Md. (partially open), 11-2 and 11-3-81

- 51648 10-21-81 / Biotechnology Resources Review Committee, Bethesda, Md. (partially open), 11-5 and 11-6-81

- 43884 9-1-81 / Biochemistry Study Section, Washington, D.C. (partially open), 11-4 through 11-7-81

- 46679 9-21-81 / Board of Counselors, National Institute of Aging, Baltimore, Md. (partially open), 11-2 and 11-3-81

- 45200 9-10-81 / Board of Scientific Counselors, National Heart, Lung, and Blood Institute, Bethesda, Md. (partially open), 11-5 and 11-6-81

- 45818 9-15-81 / Clinical Cancer Education Committee, Bethesda, Md. (partially open), 11-4-81
- 51649 10-21-81 / Clinical Applications and Prevention Advisory Committee, Bethesda, Md. (partially open), 11-5 and 11-6-81
- 41565 8-17-81 / Communicative Disorders Review Committee, Rockville, Md. (partially open), 11-6 and 11-7-81
- 45199 9-10-81 / Epilepsy Advisory Committee, Bethesda, Md. (open), 11-5 and 11-6-81
- 43884 9-1-81 / Hematology Study Section, Bethesda, Md. (partially open), 11-4 through 11-6-81
- 43884 9-1-81 / Human Development and Aging-2 Study Section, Washington, D.C. (partially open), 11-4 through 11-6-81
- 50420 10-13-81 / Large Bowel and Pancreatic Cancer Review Committee, Pancreatic Cancer Review Subcommittee, Chicago, Ill. (partially open), 11-4-81
- 43884 9-1-81 / Metabolism Study Section, Bethesda, Md. (partially open), 11-5 through 11-7-81
- 45818 9-15-81 / National Advisory Dental Research Council, Bethesda, Md. (partially open), 11-2 and 11-3-81
- 41565 8-17-81 / Neurological Disorders Program—Project Review A Committee, Bethesda, Md. (partially open), 11-5 through 11-7-81
- 43885 9-1-81 / Neurological Sciences Study Section, Bethesda, Md. (partially open), 11-5 through 11-7-81
- 43885 9-1-81 / Neurology A Study Section, Bethesda, Md. (partially open), 11-5 through 11-7-81
- 43885 9-1-81 / Neurology B Study Section, Washington, D.C. (partially open), 11-4 through 11-7-81
- 43885 9-1-81 / Physiological Chemistry Study Section, Rosslyn, Va. (partially open), 11-5 through 11-7-81
- 43885 9-1-81 / Radiation Study Section, Chevy Chase, Md. (partially open), 11-2 through 11-4-81

HISTORIC PRESERVATION ADVISORY COUNCIL

- 51795 10-22-81 / Great Point Light, Nantucket, Mass. (open), 11-5-81

INTERIOR DEPARTMENT**Geological Survey—**

- 51043 10-16-81 / Water Data for Public Use Advisory Committee, New Orleans, La. (open), 11-3 through 11-5-81
- Land Management Bureau—
- 47666 9-29-81 / Boise District Grazing Advisory Board, Boise, Idaho (open), 11-5 and 11-6-81
- 49213 10-6-81 / Fairbanks District Advisory Council, Fort Wainwright, Fairbanks, Alaska (open), 11-5-81
- 49213 10-8-81 / Fort Union Regional Coal Team, Billings, Mont. (open), 11-2 through 11-4-81
- 47873 9-30-81 / Grazing Management in Green Mountain portion of the Lander Resource Area, Rawlins District, Wyo. Lander, Wyo (open), 11-2-81
- 49959 10-8-81 / Phoenix District Kingman Resource Area Grazing Advisory Board, Kingman, Ariz. (open), 11-4-81
- 49959 10-8-81 / Riley Ridge Project, Wyoming locations (open), 11-2 through 11-5-81
- 49652 10-7-81 / Rock Springs District Advisory Council, Pinedale, Wyo. (open), 11-5-81
- 51053 10-16-81 / Southeast Oklahoma Management Framework Plan, Bokoshe, Okla. (open), 11-2-81
- 47873 9-30-81 / Winnemucca District Grazing Board, Winnemucca, Nev. (open), 11-3-81

LABOR DEPARTMENT

- 52057 10-23-81 / Labor Advisory Committee for Trade Negotiations and Trade Policy, Steering Subcommittee, Washington, D.C. (closed), 11-3-81

- 50445 Occupational Safety and Health Administration—
10-13-81 / Occupational Safety and Health National Advisory Committee, Washington, D.C. (open), 11-2 through 11-4-81

NATIONAL SCIENCE FOUNDATION

- 50626 10-14-81 / Behavioral and Neural Sciences Advisory Committee, Neurobiology Subcommittee, Washington, D.C. (partially open), 11-2 and 11-3-81; 11-5 and 11-6-81 (2 documents)
- 50627 10-14-81 / Behavioral and Neural Sciences Advisory Committee, Sensory Physiology and Perception Subcommittee, Washington, D.C. (partially open), 11-2 and 11-3-81; 11-5 and 11-6-81 (2 documents)
- 51516 10-20-81 / Chemistry Advisory Committee, Washington, D.C. (partially open), 11-5 and 11-6-81
- 50627 10-14-81 / Materials Research Advisory Committee, Ad Hoc Oversight Subcommittee, Washington, D.C. (closed), 11-5 and 11-6-81
- 51515 10-20-81 / Materials Research Advisory Committee, Solid State Chemistry Ad Hoc Oversight Subcommittee, Washington, D.C. (closed), 11-6 and 11-7-81

NUCLEAR REGULATORY COMMISSION

- 51329 10-19-81 / Reactor Safeguards Advisory Committee, Callaway Plant Subcommittee, (open), Columbia, Mo., 11-4 and 11-5-81

[See also 46 FR 52061, 10-23-81]

- 49974 10-8-81 / Reactor Safeguards Advisory Committee, Human Factors Subcommittee, Washington, D.C. (partially open), 11-2-81

[See also 46 FR 47034, 9-23-81]

- 51329 10-19-81 / Reactor Safeguards Advisory Committee, Human Factors Subcommittee, Washington, D.C. (open), 11-2-81

PRESIDENTIAL ADVISORY COMMITTEE ON FEDERALISM

- 51692 10-21-81 / Housing and Urban Development Subcommittee, Washington, D.C. (open), 11-5-81

STATE DEPARTMENT

- 51108 10-16-81 / Law of the Sea Advisory Committee, Washington, D.C. (partially open), 11-2 through 11-4-81

TRANSPORTATION DEPARTMENT**Federal Aviation Administration—**

- 51847 10-22-81 / Aeronautics Radio Technical Commission, Special Committee 147 on Traffic Alert and Collision Avoidance Systems, Washington, D.C. (open), 11-4 through 11-6-81

STATE DEPARTMENT

- 52065 10-23-81 / International Investment, Technology and Development Advisory Committee, Working Group on Transborder Data Flows, Washington, D.C. (open), 11-4-81

Next Week's Hearings**ADMINISTRATIVE CONFERENCE OF THE UNITED STATES**

- 49626 10-7-81 / Public Access and Information Committee, Washington, D.C. (open), 11-5-81

AGRICULTURE DEPARTMENT**Animal and Plant Health Inspection Service—**

- 48627 10-2-81 / Gypsy Moth and Browntail Moth Quarantine, St. Louis, Mo., 11-3-81

COMMERCE DEPARTMENT**National Oceanic and Atmospheric Administration—**

- 50999 10-16-81 / North Pacific Fishery Management Council hearings on proposed amendments to Gulf of Alaska Groundfish Fishery Management Plan and plans of other Gulf of Alaska and Bering Sea fisheries, Sitka, Alaska, 11-2-81

- 50999 10-16-81 / North Pacific Fishery Management Council, Sitka, Alaska, 11-2-81
- ENVIRONMENTAL PROTECTION AGENCY**
- 48955 10-5-81 / New Mexico Conservation Division, Santa Fe, N. Mex., 11-5-81
- 48254 10-1-81 / Underground Injection and Control Program Criteria and Standards, Washington, D.C., 11-2-81 and Denver, Colo., 11-5-81
- INTERNATIONAL TRADE COMMISSION**
- 43120 8-26-81 / President's list of articles which may be designated as eligible articles for purposes of the Generalized System of Preferences, Washington, D.C., 11-3 and 11-4-81 if required
- 49679 10-7-81 / Certain thermal conductivity sensing gem testers and components thereof, Washington, D.C., 11-2-81
- NUCLEAR REGULATORY COMMISSION**
- 49975 10-8-81 / Offshore Power Systems, Bethesda, Md., 11-2-81
- TREASURY DEPARTMENT**
- Internal Revenue Service—
- 42286 8-20-81 / Mortgage Subsidy Bonds, proposed regulations, Washington, D.C., 11-5-81
- UPPER MISSISSIPPI RIVER BASIN COMMISSION**
- 47170 9-24-81 / Upper Mississippi River System draft master plan and environmental impact statement, Bridgeton, Mo., 11-2-81; Peoria, Ill., 11-3-81; Davenport, Iowa, 11-4-81; La Crosse, Wis., 11-5-81

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 23, 1981

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

DEADLINES FOR COMMENTS ON PROPOSED RULES

- 51870 10-22-81 / ED—Migrant education program activities; grants to state educational agencies to improve interstate and intrastate coordination; comments by 12-7-81
- 51363 10-20-81 / USDA/FNS—Special Milk Program and Private School Participation; private school tuition limitation provisions; (emergency interim-final rule); comments by 11-4-81

APPLICATIONS DEADLINES

- 51274 10-19-81 / ED—National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant programs; closing date for various filings, 11-18-81
- 51326 10-19-81 / Justice/NIJ—Unsolicited Research Program announcement of competitive research grants; adult crime and criminal justice; apply by 12-1-81 for Cycle 1 and by 6-1-82 for Cycle 2

MEETINGS

- 51648 10-21-81 / HHS/NIH—Aging Review Committee, Bethesda, Md. (partially open), 12-3 and 12-4-81
- 51648 10-21-81 / HHS/NIH—Animal Resources Review Committee, Primate Research Centers, Atlanta, Ga. (partially open), 11-18-81
- 52035 10-23-81 / HHS/NIH—Arteriosclerosis, Hypertension, and Lipid Metabolism Advisory Committee, Bethesda, Md. (partially open), 10-27-81

- 51649 10-21-81 / HHS/NIH—Cellular and Molecular Basis of Disease Review Committee, Bethesda, Md. (partially open), 11-24-81
- 51649 10-21-81 / HHS/NIH—Clinical Trials Review Committee, New York, N.Y. (partially open), 11-29 and 11-30-81
- 51650 10-21-81 / HHS/NIH—Genetic Basis of Disease Review Committee, Oak Ridge, Tenn. (partially open), 11-20-81
- 51650 10-21-81 / HHS/NIH—Heart, Lung, and Blood Research Review Committee B, Chevy Chase, Md. (partially open), 12-4-81
- 51650 10-21-81 / HHS/NIH—Maternal and Child Health Research Committee, Bethesda, Md. (partially open), 11-17 and 11-18-81
- 51650 10-21-81 / HHS/NIH—Mental Retardation Research Committee, Bethesda, Md. (partially open), 11-19 and 11-20-81
- 51651 10-21-81 / HHS/NIH—National Institute of Dental Research Special Grants Review Committee, Bethesda, Md. (partially open), 11-9-81
- 51652 10-21-81 / HHS/NIH—Vision Research Program Committee, Bethesda, Md. (partially open), 11-19 and 11-20-81
- 51329 10-19-81 / NFAH—Humanities Panel, Washington, D.C. (closed), 11-9 and 11-10-81
- 51516 10-20-81 / NSF—Chemistry Advisory Committee, Washington, D.C. (partially open), 11-5 and 11-6-81
- 51515 10-20-81 / NSF—Solid State Chemistry Ad Hoc Oversight Subcommittee, Material Research Advisory Committee, Washington, D.C. (closed), 11-6 and 11-7-81
- OTHER ITEMS OF INTEREST**
- 51944 10-23-81 / ED—Guarantee Student Loan Program; family contribution schedule; correction
- 51419 10-20-81 / USDA/FNS—National average payments, maximum reduced price charges, and October/March estimates for National School Lunch and School Breakfast Programs

Slip Laws

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